

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN OCEAN PINES ASSOCIATION, INC. AND**  
**OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC.**

WHEREAS, under the Declaration of Restrictions (DR's) for all sections of the Ocean Pines Subdivision ("Subdivision" or "Ocean Pines"), the Ocean Pines Association, Inc. ("OPA") is responsible for providing fire protection for the residents of the Subdivision;

WHEREAS, fire protection services have historically and since at least 1977 been provided to residents of the Subdivision by the OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC. ("Department") (OPA and Department collectively are the "Parties");

WHEREAS, on or about September 3, 1977, OPA and the Department (collectively, "the Parties") entered into an Agreement ("the 1977 Agreement") (**Exhibit A**) governing the Department's provision of fire protection services to OPA and its members and within Ocean Pines;

WHEREAS, on or about February 20, 1981, OPA and the Department entered into an Agreement ("the 1981 Agreement") (**Exhibit B**) governing the construction of the Department's main station on property conveyed to the Department by OPA for such purpose;

WHEREAS, in correspondence dated July 5, 1995 (from the Department to the OPA) and November 7, 1995 (from the OPA to the Department) (such exchange of letters shall be referred to collectively herein as "the 1995 MOU") (**Exhibit C**), the OPA and the Department further memorialized the understanding between them in regard to fire protection and other services provided by the Department;

WHEREAS on May 12, 2008, the Parties entered into an Agreement in connection with the construction of the North OPVFD Station ("the North Station Agreement") (**Exhibit D**);

WHEREAS, The Parties entered into a Memorandum of Understanding dated September 30, 2011 ("the 2011 MOU") (**Exhibit E**), further memorializing the terms and conditions of the relationship between the Parties;

WHEREAS, on or about July 24, 2013, the Parties executed a Supplement to the 2011 MOU ("the 2013 Supplement") (**Exhibit F**);

WHEREAS, the Parties desire to re-state and/or modify in certain respects the terms and conditions of their relationship, and substitute this Memorandum of Understanding ("MOU" or "Agreement") for and in place of the 1977 Agreement, the 1981 Agreement, the 1995 MOU, the North Station Agreement, the 2011 MOU, and the 2013 Supplement and any other amendments thereto (collectively, "the Prior Agreements");

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both Parties, OPA and the Department hereby agree as follows:

1. **RECITALS.** The “whereas” clauses set forth above are hereby incorporated herein as a binding part of the terms and conditions of this MOU.

2. **ARTICLES OF INCORPORATION AND BY-LAWS OF DEPARTMENT.** Neither the Articles of Incorporation nor By-Laws of the Department may be amended at any time in any manner which creates a conflict between the provisions thereof and any provision of this MOU.

3. **PROVISION OF FIRE PROTECTION SERVICE TO SUBDIVISION.**

a. The Department shall provide to OPA and throughout the Subdivision emergency medical services, fire, and rescue protection services that adhere to the Worcester County Charter and shall fulfill OPA’s fire protection obligations under the OPA DR’s.

b. The Department shall adhere to all required standards within Worcester County Charter for volunteer Fire companies which establishes the minimum standards for Chartered volunteer Fire companies in Worcester County, Md.

c. The Department shall comply with the requirements of Sections 1-101 through 1-107 of the *Public Safety* Article of the Public Local Laws of Worcester County, Maryland, including any regulations adopted by the County Commissioners of Worcester County pursuant thereto, as said law and regulations now exist and as they may hereafter from time to time be amended, supplemented or extended. The Department shall at all times maintain in good standing its Charter as a volunteer fire company as issued by the County Commissioners for Worcester County.

d. At all times, active Department (company) membership must consist of at least twenty (20) members, including at least three active officers, all of whom must reside within the effective radius of the Department based upon the location of the South Station. Active members shall be physically able and qualified to perform assigned duties.

e. The scope of services to be provided by the Department to OPA, which may change and/or expand over time, shall be determined with reference to the needs of OPA (as determined by OPA in consultation with the Department) and the requirements for the Department to maintain its standing as a volunteer fire company duly chartered and recognized by the Worcester County Commissioners.

f. The Parties agree that “fire protection services” as used herein shall include the Department providing emergency medical services and rescue services as well as fire protection and prevention services generally

4. **INDEMNIFICATION BY DEPARTMENT OF OPA.** The Department shall forever indemnify, defend, and hold harmless OPA and its directors, officers, and employees, from and against any claims, demands, damages, causes of action, expenses, attorney’s fees, and litigation expenses incurred by OPA or asserted against OPA by any person and arising from any

failure or alleged failure to provide adequate fire protection services to the Subdivision or to comply with the terms and conditions hereof.

5. **INSPECTION OF RECORDS.** Upon reasonable notice (no less than fifteen (15) business days) from OPA, the Department shall provide OPA with access to, and reasonable opportunity to inspect, review, and copy, all books, records, journals, and other accounts maintained by the Department, including without limitation all financial books, accounts, and records. To the extent that, in order for a meaningful and complete review of the financial books and records of the Department to be undertaken by the OPA, the Department's accountant records and/or bank account records must be reviewed (in the reasonably exercised discretion of OPA), the Department shall promptly take all steps necessary in order to provide OPA with access to such records.

6. **NON-DISCRIMINATION.** The Department agrees that it will not discriminate on the basis of race, creed, color, national origin, sex, familial status, religion, or any other protected class status, in the furnishing of emergency and fire protection services to the Subdivision, in its admission to membership, or otherwise in its employment practices and operations, and it will comply with all applicable State and federal laws for the protection of civil rights.

7. **TRAINING OF DEPARTMENT MEMBERS; APPARATUS AND EQUIPMENT.** At all times, the Department shall comply fully, as to the training of Department members, the Department's inventory of apparatus and equipment, the readiness and equipping of apparatus, record-keeping, and other requirements, with all applicable State law and with all terms and conditions of the Worcester County Commissioners Resolution No. 17-5, entitled "Resolution Amending the Standards for Chartered Volunteer Fire Companies in Worcester County," as amended and/or substituted and/or or supplemented by or with other Resolutions or regulations adopted by the Worcester County Commissioners ("Resolution 17-5").

8. **FUNDING OF DEPARTMENT.**

a. **Fiscal Year of Department.** The fiscal year of the Department shall commence on May 1 of each year and shall not be changed without the written and duly approved and signed consent of OPA.

b. **Funds from Worcester County Government.** In each year, the Department shall timely and properly apply for and diligently pursue the receipt of the maximum available funding from the County Commissioners of Worcester County provided to volunteer fire companies located in Worcester County and chartered by the County Commissioners pursuant of the provisions of Sections 1-101 through 1-107 of the Public Safety Article of the Code of Public Local Laws of Worcester County, Maryland, as said law now exists and as it may hereafter from time to time be amended, supplemented or extended.

c. **Fundraising by the Department.** Each year, the Department shall make

diligent and organized efforts to solicit and obtain funds from private donors (businesses and individuals), through charitable donation initiatives which are pursued with proactive planning and organization, with the objective of maximizing the Department's charitable fundraising each year. Semi-annually, the Department shall report to the OPA General Manager and Board of Directors as to: 1) all fundraising activities and results for the previous six months; and 2) all planned fundraising activities and projected results for the next six months. In the event that OPA is at any time reasonably dissatisfied with the Department's fundraising activities, it shall so notify the Department, and at the request of either OPA or the Department, the Parties shall meet and confer as to how best to improve, enhance, or expand the fundraising activities of the Department, and in that event, the Department shall use best efforts to comply with identified and/or suggested improvements, enhancements, or expansion of the fundraising activities of the Department. In addition to fundraising through donations, the Department shall endeavor to seek all reasonably available and obtainable grants from federal, State, and local governmental sources. Any failure to meet fundraising goals and objectives by the Department shall not be used to directly and correspondingly reduce funding granted to the Department by OPA but shall bear upon and be considered in the formulation of future fundraising plans, arrived at after consultation with OPA. The Department acknowledges and understands that its adherence to both the terms and the goals and objectives of this provision is a material part of this MOU.

d. Capital Replacement Reserve. The Department shall include in its annual budgeting and financial planning, amounts necessary to maintain an adequate and properly calculated "Capital Replacement Reserve," and the Department shall at all times accurately and diligently maintain a "Capital Replacement Reserve Schedule."

Utilizing the Department's apparatus, equipment, and facilities database, a Capital Replacement Reserve Schedule ("Reserve Schedule") shall be prepared and maintained accurately by the Department and used annually to determine the amount of annual Capital Reserve funding ("Capital Cost"). All amounts used in the Reserve Schedule shall be as of the last day of the Department's fiscal year.

OPA shall at all times and upon reasonable notice have the right to review the Department's Reserve Schedule and underlying data. Funding of the Reserve Schedule shall be as follows: 25%/75% split whereas the Department will fund 25% of the yearly required reserve contribution amount and OPA shall contribute 75% of the required reserve contribution amount. **Provided:** OPA funding shall not be used by the Department to cover its share of contribution to reserves.

The Parties agree that the foregoing funding split as to the Capital Replacement Reserve Schedule will be re-evaluated every five (5) years with reference to inflation and any other material changes economically or otherwise, but the Parties understand and agree that any change to the funding split shall require the written and signed consent of both Parties, and in this regard, the Parties shall negotiate with one another in good faith. . In the event that the Department must obtain a loan to fund the Capital Replacement Reserve, OPA may, in its absolute discretion and within any budgetary and balance sheet constraints, provide a guarantee



of such financing, but in no event shall OPA be required to do so.

The determination of the Capital Replacement Reserve and the annual Capital Cost shall be based on the projected replacement cost of the depreciable assets of significance, currently in use and necessary to provide services as required hereunder, with required annual reserve funding for assets of significance being based upon the estimated replacement cost and number of years of useful life remaining for such assets.

Those depreciable equipment and apparatus assets, which are not significant, shall not be separately listed, but aggregated into a single, or several, amounts on the Reserve Schedule ("Large Equipment", etc.) and shall receive the same treatment as the individually listed assets. The cost and estimated replacement cost, as well as the estimated useful and remaining lives, shall be reasonable approximations of the actual average of the assets comprising these groups, as agreed to by the Parties.

The amount of Reserve funds on hand shall include all cash and investments, with the following exceptions: a) "Fundraising" cash shall be excluded as such funds shall be utilized otherwise in the Department's overall funding; b) an amount equal to 25% (3 months) of the Department's annual operating costs shall be excluded; c) any cash funds being held for other parties shall be excluded; and, d) significant non-cash items, including pre-funding of future expenses (i.e. prepaid fundraising expenses), shall be included as Reserve Cash in the calculation. The amount of Reserve Cash used for budgetary calculations shall be the amount projected to be on hand at the end of the fiscal year immediately preceding the fiscal year for which the budgeted Capital Cost is being prepared.

e. Annual Funding from OPA.

i. In the event that funds appropriated by the County Commissioners and distributed to the Department, together with funds raised through grants and/or fundraising activities of the Department, are insufficient to meet the needs of the Department (in order to provide the services required hereunder and to meet the requirements of Resolution 17-5), it shall prepare and submit to OPA a request for financial or other form of assistance/support. Such application shall be prepared and submitted to OPA not later than December 1st of each year following the execution of this MOU. Such application shall be reasonably detailed as to the amounts and types of support/funding being sought, and the basis and grounds for each aspect of the request.

ii. In the event that, either before or after submission of the funding request by the Department, OPA seeks additional reasonable information from the Department regarding its finances and/or fundraising, the Department shall promptly provide such additional information, to the extent that such information is available and in the possession of the Department or its accountant or is readily obtainable by the Department.

iii. At the request of either the Department or the OPA following the funding request, the Parties shall meet and confer as to the Department's funding request, the scope and content thereof, the Department's other fundraising activities, the

additional information (if any) sought by the OPA, or any other matter reasonably related to the funding request.

iv. The Department, in its reasonably exercised discretion, will make apparatus replacement determinations after completing an industry standard review process and seeking a minimum of three (3) bids, and in a manner sufficient to comply with Resolution 17-5, as amended and/or supplemented. In making its funding determination and considering the Department's funding requests, OPA shall defer to the Department's reasonably made apparatus replacement determinations, so long as such determinations are consistent with Resolution 17-5 as amended and/or supplemented, and are otherwise consistent with this MOU and the Prior Agreements.

v. Each annual funding request shall recognize and include amounts, if any, necessary to maintain an adequate and properly calculated Capital Replacement Reserve and shall delineate clearly between funding sought for regular and recurring operating expenses, funding sought for capital costs in the funding year, and funding sought for maintenance of the required Capital Replacement Reserve.

vi. As part of its ordinary budget formulation and adoption process, OPA shall incorporate into its annual budget, funding and/or purchases for the Department, if requested by the Department, and in an amount as determined by OPA in its reasonably exercised discretion (including deference given to the Department's apparatus replacement determinations as stated above) to be necessary in order for the Department to continue adequately providing fire and emergency services as contemplated and required hereunder, and to the level and extent as contemplated and required hereunder.

vii. The Department may submit requests for immediate funding in the event of an emergency. By way of example and not limitation, such emergency may be HVAC failure, plumbing failure, building damage that would result in loss of use, equipment essential for fire protection services failure resulting in loss of use, etc... The OPA shall have reasonable discretion to grant or deny such requests, properly bearing in mind OPA's obligations under the DR's to provide continuous and adequate fire protection services to OPA residents.

viii. If the Department is gifted/awarded a single donation or bequest of \$25,000 or greater, the Department shall promptly notify OPA of the donation or bequest, the planned use of such funding, and effect thereof (if any) on the funding budgeted to be provided to the Department by OPA.

ix. All funding requests by the Department shall be based upon and presented in accordance with the Department's overall budget, prepared annually.

x. Funding provided by OPA hereunder will be determined (and provided/paid) subject to and in accordance with the limitations, requirements, and constraints of OPA Bylaws and other governing documents.

xi. A Capital line item will remain in the Department's annual budget that is separate from apparatus and facilities replacement. Items under this line item will include, but not be limited to, handheld equipment such as thermal imaging cameras, four (4) gas meetings, personal protective equipment (PPE) such as turnout gear, nozzles, support vehicles and other specialized firefighting equipment.

xii. Funding disbursements by OPA to the Department shall be made in monthly payments made directly to the Department by the 15th day of each month.

xiii. The Department's books and records and financial statements shall reflect the nature of the various funds received from OPA and also reflect the nature of the agreed upon Capital Reserve Funds and Reserve Cash of the Department.

xiv. The Department shall advise OPA in advance of all capital purchases in excess of \$50,000.00.

xv. The Department shall provide to OPA accurate quarterly financial statements.

f. No loans/financing/pledging or encumbering of assets without OPA consent. Subject to the provisions below governing planned construction of a new South Station, the Department shall not obtain any loans or financing, whether secured or unsecured, and may not pledge, assign, lease, sell, or encumber any of its assets as collateral for loans or financing or otherwise, without the prior written, signed, and fully informed consent of OPA, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, consent may be withheld by OPA in the event that the Department's planned loan, financing, selling or encumbering of assets materially impairs the lien rights that OPA effectively has against the assets of the Department, and/or OPA's other rights, under the terms and conditions of this MOU.

g. The Department shall hold and manage all of its financial accounts, subject to OPA's rights of review under this MOU.

9. **DISSOLUTION OF DEPARTMENT.** In the event that the Department dissolves or ceases to operate, and immediately upon such dissolution or cessation of operation, all assets and property belonging to the Department (including without limitation monetary funds, capital replacement and other reserves, accounts, equipment, apparatus, other personal property, and real property and improvements thereon) shall be transferred to and shall become the property (legally and equitably) of, OPA; and the Department and/or its members, officers, successors, receivers, or trustees, shall immediately take all necessary steps and cooperate fully with OPA in order to effectuate and accomplish the transfer of possession and legal and beneficial ownership of all such property; and the Department shall immediately vacate and turnover to OPA possession and occupancy of any and all of its real estate and improvements. Any funds payable to the Department by any funding source at the time of dissolution of the Department or cessation of operation by the Department shall become the property of OPA.

10. **INSOLVENCY OF DEPARTMENT.** In the event that the Department becomes insolvent, files for bankruptcy protection, becomes subject to any other judicial supervision, liquidation, or receivership, all assets and property belonging to the Department (including without limitation monetary funds, capital replacement and other reserves, accounts, equipment, apparatus, other personal property, and real property and improvements thereon) shall be transferred to and shall become the property (legally and equitably) of, OPA; and the Department and/or its members, officers, successors, receivers, or trustees, shall immediately take all necessary steps and cooperate fully with OPA in order to effectuate and accomplish the transfer

of possession and legal and beneficial ownership of all such property; and the Department shall immediately vacate and turnover to OPA possession and occupancy of any and all of its real estate and improvements. Any funds payable to the Department by any funding source at the time of insolvency, bankruptcy filing, or other judicial supervision, liquidation, or receivership, shall become the property of OPA.

11. **DEFAULT/BREACH BY DEPARTMENT.** In the event that the Department materially breaches this MOU and fails to cure such default within sixty (60) days after written notice of the default thereof from OPA, OPA may terminate the relationship between OPA and Department. Upon such termination, all assets and property belonging to the Department (including without limitation monetary funds, capital replacement and other reserves, accounts, equipment, apparatus, other personal property, and real property and improvements thereon) shall be transferred to and shall become the property (legally and equitably) of, OPA; and the Department and/or its members, officers, successors, receivers, or trustees, shall immediately take all necessary steps in order to effectuate and accomplish the transfer of possession and legal and beneficial ownership of all such property; and the Department shall immediately vacate and turnover to OPA possession and occupancy of any and all of its real estate and improvements. Any funds payable to the Department by any funding source at the time of an uncured default by the Department shall become the property of OPA.

In the event of termination based on uncured default by the Department, all employees of Department shall continue in then existing roles at then existing compensation levels for no less than six (6) months the effective date of termination, OR alternatively, they shall receive six (6) month severance packages. Notwithstanding the foregoing, no Department employee shall be entitled to severance or any compensation continuing beyond termination arising from an uncured default by the Department, if such employee is found by OPA, in its reasonably exercised discretion, to have engaged or to be engaging in any criminal conduct or other intentional wrongdoing while acting within the scope of employment.

12. **TERMINATION OF RELATIONSHIP BY DEPARTMENT.** In the event that the Department at any time and for any reason terminates its relationship with OPA as memorialized herein, all assets and property belonging to the Department (including without limitation monetary funds, capital replacement and other reserves, accounts, equipment, apparatus, other personal property, and real property and improvements thereon) shall be transferred to and shall become the property (legally and equitably) of, OPA; the Department and/or its members, officers, successors, receivers, or trustees, shall immediately take all necessary steps in order to effectuate and accomplish the transfer of possession and legal and beneficial ownership of all such property; and the Department shall immediately vacate and turnover to OPA possession and occupancy of any and all of its real estate and improvements. Any funds payable to the Department by any funding source at the time of termination by the Department shall become the property of OPA.

13. **TERMINATION BY MUTUAL AGREEMENT.** In the event that the Parties mutually agree for any reason and at any time to terminate their relationship as memorialized

herein, all assets and property belonging to the Department (including without limitation monetary funds, capital replacement and other reserves, accounts, equipment, apparatus, other personal property, and real property and improvements thereon) shall be transferred to and shall become the property (legally and equitably) of, OPA; the Department and/or its members, officers, successors, receivers, or trustees, shall immediately take all necessary steps in order to effectuate and accomplish the transfer of possession and legal and beneficial ownership of all such property; and the Department shall immediately vacate and turnover to OPA possession and occupancy of any and all of its real estate and improvements. Any funds payable to the Department by any funding source at the time of termination by mutual agreement shall become the property of OPA.

14. **NORTH STATION (249 Ocean Parkway)**. Pursuant to and subject to the terms of the North Station Agreement, the Department constructed a fire station at its own expense on a parcel of property owned by OPA (“the North Station Property”), namely, 249 Ocean Parkway, Ocean Pines, Maryland. The Department has been and will continue to be responsible, at its expense (but supported in part by the funding provided by OPA to the Department under this MOU), for the maintenance and repair of the North Station and the North Station Property, including without limitation the interior and exterior of all firehouse facilities located thereon, parking facilities, landscaping, grounds, and other improvements. Such maintenance shall be sufficient to keep the property and facilities and improvements thereon in good condition, free of defects and/or unsightly conditions, and adequate for fire and emergency services conducted therefrom. The Parties agree that the Department’s right to use and occupy the North Station Property, exclusively, as previously granted under the North Station Agreement and as now granted hereunder shall continue, subject to the other terms and conditions hereof, for successive periods of fifty (50) years, so long as the Department complies with this MOU. So long as the Department is providing fire protection services as required hereunder, the Department shall use, occupy, maintain, and conduct operations from, the North Station, in accordance herewith. The Department’s failure to use, occupy, maintain, and conduct operations from, the North Station, in accordance herewith, shall constitute a material breach of this MOU unless otherwise agreed to by Parties. No material alterations may be made to the North Station Property improvements, and no additional improvements may be constructed on the North Station Property, without the prior, written approval of OPA, which approval shall not be unreasonably withheld. The North Station improvements may not be sold or leased by the Department.

15. **SOUTH STATION (911 Ocean Parkway)**. The South Station Property, 911 Ocean Parkway, Ocean Pines, Maryland (“South Station Property”), including improvements thereon, is owned by the Department. The Parties wish to memorialize herein their understanding as to a planned reconstruction of the South Station, funding of same, and ownership of same thereafter.

a. **Construction of New Fire House on South Station Property (“the Project”)**. OPA shall manage the construction on the South Station Property of a newly constructed firehouse to be utilized exclusively by the Department, subject to all other terms and conditions of this MOU, for the purpose of providing services hereunder. The firehouse shall be constructed to meet

industry standards including as set forth by the National Fire Protection Association, and to meet all State and local regulatory requirements. Structure design and fit out (interior dimensions, design, layout, furniture, colors schemes etc.) shall be determined by the Department and agreed to by OPA, and any and all changes to design and/or fit out must be expressly approved by Department and OPA, in advance.

b. Required Approvals. The Parties shall work jointly and cooperatively to obtain all necessary approvals for the Project, including from the Worcester County Department of Development Review and Permitting. The Parties agree that in the event that any necessary regulatory approval is not obtained, for any reason, the Project will be terminated or, alternatively, shall be modified as mutually agreed by the Parties.

c. Access Points; Signage. OPA does hereby agree that, subject to obtaining any necessary County or other approvals, it shall provide to the Department three points of ingress and egress for the Project providing access directly onto/from Ocean Parkway in the manner and configuration determined through development of the design for the Project. OPA further agrees that, subject to obtaining any necessary County or other approvals, it shall cause such signage and other necessary traffic safety structure to be erected adjacent to the site for the purpose of allowing traffic to access safely to and from said facility and Ocean Parkway.

d. Ownership and Maintenance of Property and New Improvements. Upon completion of the Project as contemplated hereunder: OPA shall own the improvements, subject to the Department's right of exclusive use and occupancy thereof, while the Department shall at all times, including during and after completion of the Project, own the real property known as 911 Ocean Parkway. Upon completion of the new station and associated improvements, the Department shall pay all property taxes associated with the South Station Property and the improvements thereon. The Department shall be responsible, at its expense (but supported in part by the funding provided by OPA to the Department under this MOU), for the maintenance and repair of the South Station and the South Station Property, including without limitation the interior and exterior of all firehouse facilities located thereon, parking facilities, landscaping, grounds, and other improvements. Such maintenance shall be sufficient to keep the property and facilities and improvements thereon in good condition, free of defects and/or unsightly conditions, and adequate for fire and emergency services conducted therefrom. The Parties agree that the Department's right to exclusively use and occupy the South Station shall continue, subject to the other terms and conditions hereof, for successive periods of fifty (50) years. So long as the Department is providing fire protection services as required hereunder, the Department shall use, occupy, maintain, and conduct operations from, the South Station, in accordance herewith. The Department's failure to use, occupy, maintain, and conduct operations from, the South Station, in accordance herewith, shall constitute a material breach of this MOU. Once the Project is completed, no material alterations may be made to the South Station Property improvements, and no additional improvements may be constructed on the South Station Property, without the prior, written approval of OPA. The South Station property may not be sold, assigned, or leased by the Department without OPA's consent.

e. Funding of Construction of New South Station.

i. Department Funding. The Department shall utilize grant and bond funds previously secured (“the Grants”) toward the cost of construction of the Project. The Department shall also utilize funds raised through charitable fundraising efforts or otherwise available to the Department for the Project (“the Other Department Funds”). The Grants to be provided by the Department shall be no less than \$1,700,000.00; and the Other Department Funds to be provided by the Department shall be no less than \$750,000.00.

ii. OPA Funding. The OPA shall be responsible for all remaining Project costs, subject to OPA having exclusive control over the ultimate cost and scope of the Project, as well as management thereof.

iii. Coordination and Agreement between the Parties as to Scope and Cost of Project. It is understood and agreed between the Parties that, as to the overall scope and cost of the Project as well as design thereof, they will work cooperatively to reach agreement and to maintain agreement throughout as to the scope and cost of the Project and any changes thereto. The respective Funding and other obligations of the Parties as to the Project shall be conditioned upon the Parties pursuing, planning, and carrying out the Project jointly, cooperatively, and with mutual agreement and understanding as to overall cost and scope.

f. Construction Easement. So that the management of the Project may be undertaken and completed by OPA as contemplated hereunder, for that purpose, the Department hereby grants to OPA and its contractors and subcontractors a construction easement which broadly grants full access and right of control to OPA over the entirety of the South Station Property, and shall be superior to the Departments rights of use and occupancy in the South Station Property, which easement shall terminate when the Project is completed.

g. Contingencies. The Project and the Parties’ respective obligations in regard to the Project shall be further conditioned upon: i) OPA obtaining financing for the Project from a financial institution of its choosing; ii) such bank financing being provided on commercially reasonable terms, and for an amount sufficient to cover OPA’s share of Project funding; iii) if necessary, referendum approval by the OPA membership for the Project, the funding provided by OPA for the Project, financing obtained by OPA to cover its share of the Project funding, and/or any other matter associated with the Project; iv) the Department having the Grants and Other Department Funds available for the Project; and v) the Department cooperating fully in regard to, signing necessary Notes in regard to, and providing necessary collateral for, any bank financing secured and guaranteed by OPA in regard to the Project, for its share of the Project funding.

h. In the event that the Project does not go forward as contemplated hereunder (or for any reason is completed without funding from OPA), the Department shall maintain and keep full ownership of the South Station Property and all improvements thereon.

i. To the extent that further agreements are necessary to effectuate the

intentions reflected herein as to the contemplated Project, the Parties shall cooperate in good faith with one another in that respect.

16. **MEMBER INCENTIVES.** OPA shall provide to Department members and their immediate family members reasonable benefits as to use of OPA amenities, as agreed by OPA separately and outside of this MOU, and in a manner generally consistent with historical practice and policy.

17. **INSURANCE.** As to the North Station property/building/improvements, the Department shall procure and maintain at all times property/liability insurance with appropriate coverages and limits and shall name OPA as an additional insured. As to the South Station property/building/improvements, the Department shall procure and maintain at all times property/liability insurance with appropriate coverages and limits and shall name OPA as an additional insured. The Department shall at all times procure and maintain Comprehensive General Liability (CGL) insurance with appropriate coverages and limits. The Department shall at all times procure and maintain property/liability insurance with appropriate coverages and limits as to Department apparatus, equipment, and other building contents. The Department shall at all times procure and maintain workers' compensation insurance and unemployment insurance, as to any and all paid Department employees. The premiums for the aforementioned types of insurance will be included as part of the Department's annual budget and therefore part of what the Department submits to OPA with and as part of its annual funding requests hereunder.

18. **MEDIATION.** Any dispute arising hereunder shall, as a precondition to any other dispute resolution mechanism, be mediated by the Parties. Either Party may request and initiate mediation by providing to the other party a written mediation demand, identifying therein with sufficient particularity the matter(s) in dispute. The mediator shall be selected by mutual agreement of the Parties. The date, time, and place of the mediation shall be determined by mutual agreement of the Parties. Each Party may select, in its own discretion, no more than three (3) representatives to attend the mediation (excluding legal counsel who may also attend).

19. **MODIFICATION OF AGREEMENT.** Any amendment or modification of this MOU shall be binding and enforceable only if evidenced in a writing signed by the Parties.

20. **GOVERNING LAW; VENUE.** It is agreed that this MOU shall be governed by, interpreted, construed, and enforced in accordance with, the laws of the State of Maryland. Any disputes arising hereunder shall be litigated in the Court of Worcester County, Maryland. The Parties waive their respective rights to jury trial, if any, in any litigated disputes arising from this MOU or any matter related to this MOU or the relationship between the Parties as memorialized herein. If either Party brings suit to enforce any of the provisions contained herein, or for breach of this MOU, the prevailing Party in any such suit shall be entitled to recover (from the non-prevailing Party) its reasonable attorney's fees and other litigation costs.



21. **NO WAIVER.** The failure of either party to insist upon the full performance of, and adherence to, any of the terms and conditions of this MOU, or either party's waiver of any breach by the other party of any of the terms and conditions of this MOU, shall not be construed as waiving any of the terms and conditions of this MOU, but such terms and conditions shall remain in full force and effect as if no such forbearance or waiver had occurred.

22. **SEVERABILITY.** In the event that any provision of this MOU is at any time found by a Court or arbitrator(s) of competent jurisdiction to be invalid or unenforceable, the Parties agree that all other provisions of this MOU shall remain in full force and effect.

23. **BINDING EFFECT; ENTIRE AGREEMENT.** This MOU shall be binding on all successors and permitted assigns of the Parties, and the obligations of the Parties shall be binding upon all future governing Boards of each Party. This MOU shall constitute the entire agreement between the Parties as to the subject matter hereof, and it supersedes all of the Prior Agreements.

24. **NO ASSIGNMENT.** This Agreement, and the duties, rights, and obligations arising hereunder, shall not be assignable or delegable by any Party in the absence of the other Party's written and signed consent.

HAVING READ AND UNDERSTOOD ALL OF THE TERMS AND CONDITIONS OF THE FOREGOING AMENDMENT, WE HEREBY AGREE TO BE BOUND THEREBY.

**OCEAN PINES ASSOCIATION, INC.**

By: \_\_\_\_\_ Date \_\_\_\_\_  
Richard (Rick) Farr, OPA President

ATTEST:

\_\_\_\_\_ Date \_\_\_\_\_  
John Latham, OPA Secretary

**OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC.**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



AGREEMENT

THIS AGREEMENT, made and entered into this 20th day of February, 1988, by and between OCEAN PINES ASSOCIATION, INC., a Maryland non-stock corporation (the "Association"), and OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC., a Maryland non-stock corporation (the "Department").

WHEREAS, the Association is a non-profit, non-stock Maryland corporation created and existing with the general purpose of furthering and promoting the community welfare of property owners in the Ocean Pines subdivision located in Worcester County, Maryland (the "Subdivision"), and with the responsibility of exercising the rights and privileges and performing the duties and obligations of the Association set forth in the various Restrictions applicable to the Subdivision (the "Restrictions") and in the Articles of Incorporation and By-Laws of the Association as amended from time to time; and

WHEREAS, Paragraph 12C of the Restrictions requires that the Association provide fire protection to the Subdivision; and

WHEREAS, in furtherance of its responsibility to provide fire protection to the Subdivision, the Association caused the Department to be incorporated and has provided it with substantial financial and other forms of assistance; and

WHEREAS, the Association and the Department entered into an agreement dated September 3, 1977, under the terms of which the Association agreed to financial and other assistance to the Department; and

WHEREAS, in furtherance of the agreement of September 3, 1977, the Association desires to transfer to the Department certain property hereinafter described for the purpose of construction of a fire house.

NOW, THEREFORE, for and in consideration of the premises, covenants, warranties, terms and conditions to be performed

by the parties as set forth herein, the parties hereby agree as follows:

1. Transfer of Property. On or before the last to occur of thirty (30) days from the date of this Agreement or the date of closing of the loan described in Paragraph 3, the Association will execute a special warranty deed conveying to the Department the property described in Exhibit "A" to this Agreement. The Association shall prepare and record the deed at its expense.

2. Construction of Fire House on Property. The Department shall construct and maintain on the property described in Exhibit "A" a fire house to be utilized for the purpose of providing fire protection to the residents of the Ocean Pines subdivision.

3. Mortgage Loan from Farmers Home Administration for Construction of Fire House. The Department shall execute all such documents as may be necessary to obtain a mortgage loan from the Farmers Home Administration of the United States Department of Agriculture for the purpose of financing the cost of construction of the fire house. The Association shall provide such legal and technical assistance to the Department as may be necessary in order to secure such loan. The Association shall pay in a timely manner to, or on behalf of, the Department the amount of all such mortgage loan payments as may come due under the loan obtained from the Farmers Home Administration. All documents executed by the Department in connection with such mortgage loan shall be in a form acceptable to the attorney for the Association, whose approval will not unreasonably be withheld.

4. Prohibition Against Additional Mortgage Loans. The Department shall not execute any other mortgage or deed of



trust secured by the property described in Exhibit "A" without the express permission of the Association.

5. Restrictions on Use of Property. The property described in Exhibit "A" shall not be used by the Department for any purpose other than the provision of fire protection and related activities for the residents of the Ocean Pines subdivision.

6. Prior Agreement. The parties agree that the Department's ownership and use of the property described in Exhibit "A" shall be fully subject to all of the terms and conditions of the prior agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their behalf by the proper officer and their corporate seals affixed the day and year first above written.

WITNESS:

OCEAN PINES ASSOCIATION, INC.

Leonard F. Donnelly  
Secretary

By: Clarence W. Lewis, Jr.  
Clarence W. Lewis, Jr.,  
President

WITNESS:

OCEAN PINES VOLUNTEER FIRE  
DEPARTMENT, INC.

Francis J. McNamee  
Secretary

By: John M. King  
John M. King, President

A G R E E M E N T

THIS AGREEMENT, made and entered into this 3rd day of September, 1977, by and between OCEAN PINES ASSOCIATION, INC., a Maryland non-stock corporation (the "Association"), and OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC., a Maryland non-stock corporation (the "Department").

WHEREAS, the Association is a non-profit, non-stock Maryland corporation created and existing with the general purpose of furthering and promoting the community welfare of property owners in the Ocean Pines subdivision located in Worcester County, Maryland (the "Subdivision"), and with the responsibility of exercising the rights and privileges and performing the duties and obligations of the Association set forth in the various Restrictions applicable to the Subdivision (the "Restrictions") and in the Articles of Incorporation and By-Laws of the Association as amended from time to time; and

WHEREAS, Paragraph 12C of the Restrictions requires that the Association provide fire protection to the Subdivision; and

WHEREAS, in furtherance of its responsibility to provide fire protection to the Subdivision, the Association caused the Department to be incorporated and has provided it with substantial financial and other forms of assistance; and

WHEREAS, the Association and the Department entered into an agreement dated February 22, 1975, a copy of which is attached hereto as Exhibit "A", under the terms of which the Association agreed to budget and provide funds for all necessary expenses and capital outlay for the Department; and

WHEREAS, the Association and the Department intend hereby to rescind their agreement of February 22, 1975, and to have their relationship hereafter governed by this agreement; and

WHEREAS, by this agreement the Department is binding itself to the Association to fulfill all of the Association's responsibilities under the Restrictions to provide fire protection to the Subdivision.

NOW, THEREFORE, for and in consideration of the payment of all



sums provided herein and of the promises, covenants, warranties, terms and conditions to be performed by the parties as set forth herein, the parties hereby agree as follows:

1. Rescission of Agreement of February 22, 1975.

The parties agree that their agreement dated February 22, 1975, a copy of which is attached hereto as Exhibit "A", be, and the same hereby is, rescinded as of the effective date of this agreement.

2. Amendments to Articles of Incorporation and By-Laws of Department.

The parties agree that the Articles of Incorporation and By-Laws of the Department shall be amended as indicated on Exhibits "B" and "C" hereto. Within fifteen (15) days of the effective date of this agreement, the parties agree that all such documents as may be necessary shall be executed and filed with the appropriate authority in order to effectuate such amendments.

3. Resignation of Officers and Directors.

Attached hereto as Exhibit "D" are the resignations of the officers and directors of the Department who were elected at the annual meetings of the membership and board of directors of the Department held on September 3, 1977. Following the effective date of this Agreement but in no event later than thirty (30) days following adoption of the amendments indicated on Exhibits "B" and "C", special meetings of the membership and board of directors of the Department shall be called and held for the purpose of accepting such resignations and electing new officers and directors to serve the remainder of the term of such officers and directors.

4. Provision of Fire Protection Service to Subdivision.

The Department agrees to provide adequate fire protection service to the Subdivision and to fulfill all of the Association's obligations to the members of the Association to provide fire protection in accordance with Paragraph 12C of the Restrictions.

5. Indemnification of Association.

The Department hereby agrees to forever indemnify, defend



and hold the Association harmless from and against any expenses, legal fees or damages incurred by the Association arising out of any claim or suit brought or asserted against the Association by any person based upon any alleged failure to provide adequate fire protection service to the Subdivision or to comply with Paragraph 12C of the Restrictions.

6. Use of Community Center.

In order to assist the Department in providing fire protection to the Subdivision, the Association agrees to allow the Department to have exclusive use of those portions of the Community Center building owned by the Association and located in White Horse Park, Ocean Pines, Berlin, Maryland, as are so indicated on Exhibit "E" hereto, and use in common with the Association of those areas so indicated on Exhibit "E" hereto. Use of the remainder of the Community Center by the Department shall be at the discretion of the Association. Such use by the Department shall not require the payment of any rent to the Association. The right of such use by the Department shall commence on the effective date of this agreement and shall continue for a period of ten (10) years from such date, after which the right of such use shall be extended for successive periods of five (5) years unless one of the parties shall notify the other in writing of its intention not to extend the original term, or any extension thereof, at least one (1) year prior to the end of such term.

7. Compliance with Laws and Regulations.

The Department shall comply with all of the requirements of Sections 1-101 through 1-107 of the Public Safety Article of the Code of Public Local Laws of Worcester County, Maryland, including any regulations adopted by the County Commissioners of Worcester County pursuant thereto, as said law and regulations now exist and as they may hereafter from time to time be amended, supplemented or extended. The Department shall at all times maintain in good standing its charter as a volunteer fire company issued by the County Commissioners for Worcester County.

8. Application for Funds for Worcester County.

The Department agrees to apply for and diligently pursue the receipt of an equal share of the funds appropriated by the County Commissioners of Worcester County for the assistance, maintenance and support of the various volunteer fire companies chartered by the County Commissioners pursuant to the provisions of Sections 1-101 through 1-107 of the Public Safety Article of the Code of Public Local Laws of Worcester County, Maryland, as said law now exists and as it may hereafter from time to time be amended, supplemented or extended.

9. Application for Assistance from Association.

In the event that the funds appropriated by the County Commissioners and distributed to the Department, together with any other funds donated to the Department, are insufficient to meet the reasonable needs of the Department, it shall prepare and file with the Association a request for financial or other form of assistance. Such application shall be prepared and filed with the Association not later than February 1 of each year following the execution of this agreement. Following receipt of such request, the Association shall provide financial or other form of assistance to the Department in such form or amount as the Board of Directors of the Association may, in its sole discretion, deem reasonably necessary to meet the needs of the Department as evidenced in its request. Nothing contained in this agreement shall prevent the Department from submitting to the Association a request for emergency financial or other form of assistance, nor shall anything contained herein preclude the Association from imposing conditions upon the Department's expenditure of funds received from the Association. All financial or other form of assistance received under this agreement by the Department from the Association shall be used solely for fire protection purposes.

10. Fiscal Year of Department.

The fiscal year of the Department shall commence on May 1 of each year, and shall not be changed without the consent of the Association.



11. Inspection of Records.

★ Upon reasonable notice from the Association, the Department shall permit the Association to inspect all books, records, journals, and other accounts maintained by it.

12. Transfer of Fire Protection Equipment to Department.

As of the effective date of this agreement, the Association shall, and by execution of this agreement does, transfer unto the Department all of the fire protection equipment then owned by the Association and which has theretofore been utilized by the Department in furnishing fire protection service to the Subdivision. The Association shall execute all such documents as may be necessary in order to carry out such transfers. The obligation of the Association under this paragraph shall not include any form of real property.

13. Nondiscrimination.

The Department agrees that it will not discriminate on the basis of race, creed, color, national origin or sex in the furnishing of fire protection services, in admission to membership or in its employment practices, and will comply with all applicable laws for the protection of civil rights.

14. Dissolution of Department.

In the event of dissolution of the Department, it shall, pursuant to Article Seventh, Paragraph 4 of its Articles of Incorporation, distribute all assets of the Department to the Association.

15. Default by Department.

In the event that the Department violates any provision of this agreement and fails to cure such default within sixty (60) days after notice thereof from the Association, the Association shall have the right to terminate this agreement by giving written notice thereof to the Department. In the event of termination of this agreement by the Associa-

tion, the Department shall forthwith vacate those portions of the Community Center building used by it, and transfer to the Association all of its assets, including, but not limited to, real and personal property, bank accounts and cash. Such assets shall thereafter be used by the Association to provide fire protection to the Subdivision. In the event that any unexpended funds received by the Department from the County Commissioners of Worcester County are so transferred to the Association, such funds shall either be returned to the County Commissioners or expended for fire protection purposes as may be directed by the County Commissioners.

16. Effective Date.

This agreement shall be effective on the last to occur of the date above first written or approval of the form of this agreement by the County Attorney of Worcester County, Maryland, as complying with the provisions of Sections 1-101 through 1-107 of the Public Safety Article of the Code of Public Local Laws of Worcester County, Maryland.

17. Miscellaneous.

A. Notices.

All notices required hereunder shall be sent in writing by certified or registered mail, return receipt requested, or delivered by hand with receipt acknowledged, to the persons and addresses set forth below (or to such other persons and/or addresses hereinafter specified by written notice):

To the Department:

Willard H. Maier, President (or his successor)  
c/o Ocean Pines Volunteer Fire Department, Inc.  
Route 4, Box 2698  
Berlin, Maryland, 21811

With copies to:

Frank McNamara, Secretary  
c/o Ocean Pines Volunteer Fire Department, Inc.  
Route 4, Box 2698  
Berlin, Maryland, 21811

To the Association:

Evan D. Anderson, President (or his successor)  
c/o Ocean Pines Association, Inc.  
Route 4, Box 2700  
Berlin, Maryland, 21811

and

Community Manager  
Ocean Pines Association, Inc.  
Route 4, Box 2700  
Berlin, Maryland, 21811.

With copy to:

Roger W. Titus, Esq.  
255 North Washington Street  
P. O. Box 1906  
Rockville, Maryland, 20850.

B. Amendments.

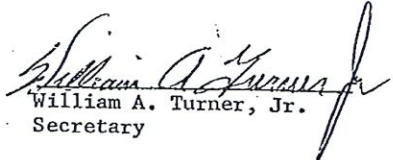
This agreement shall be final and binding upon both parties. No amendment to any provision hereof shall be binding or effective unless in writing and executed by both parties.

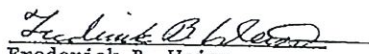
C. Assignment by Department.

This agreement, and each and every right, privilege, covenant, duty and/or obligation of the Department set forth herein, may not be assigned, in whole or in part, by the Department.

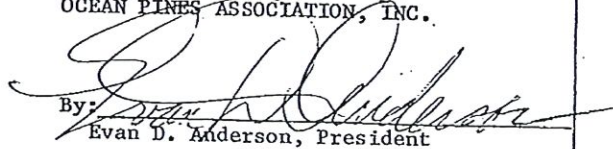
IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in their behalf by their proper officer and their corporate seals affixed the day and year first above written.

WITNESS:

  
William A. Turner, Jr.  
Secretary

  
Frederick B. Weiss  
Assistant Secretary

OCEAN PINES ASSOCIATION, INC.

By:   
Evan D. Anderson, President

OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC.

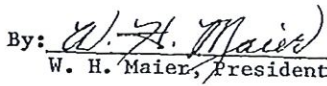
By:   
W. H. Maier, President



EXHIBIT "A"

AGREEMENT

THIS AGREEMENT made this 2nd day of February, 1975, by and between OCEAN PINES ASSOCIATION, INC., a Maryland corporation (hereinafter called ASSOCIATION), and OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC., a Maryland corporation (hereinafter called DEPARTMENT);

W I T N E S S E T H:

WHEREAS, ASSOCIATION has purchased certain equipment for DEPARTMENT, and, WHEREAS, DEPARTMENT has engaged in certain fund raising activities, and, WHEREAS, the parties desire a definite agreement with respect to the budget for DEPARTMENT, and

WHEREAS, DEPARTMENT is desirous of becoming tax-exempt and has filed, or is about to file, for an exemption from Federal taxation on the basis of being a membership corporation exempt from taxation under Internal Revenue Code 501(c)(4), and,

WHEREAS, the parties are desirous that the funds of DEPARTMENT be spent only for exempt purposes;

NOW, THEREFORE, the parties have agreed as follows:

1. ASSOCIATION agrees to budget and provide funds for all necessary expenses and capital outlays for DEPARTMENT, such sums to include salaries, capital improvements, machinery, equipment, supplies and training expenses (hereinafter called expenses).

2. DEPARTMENT agrees to contribute whatever funds it shall raise toward expenses incurred by ASSOCIATION.

3. The parties agree that if in any given year the contribution by DEPARTMENT toward the expenses incurred by ASSOCIATION are less than the actual expenses incurred by ASSOCIATION, then such excess expenses shall be accumulated in a ledger or journal by ASSOCIATION. If, in any given year, the funds raised by DEPARTMENT are in excess of the actual expenses incurred on behalf of DEPARTMENT in any given year, all amounts of the excess shall be applied to the reduction of accumulated excess expenses.

4. All funds raised or collected by DEPARTMENT shall be paid over to ASSOCIATION before the close of each fiscal year.

IN WITNESS WHEREOF, the parties have set their hands and seals on the date heretofore written.

ATTEST:

Therese M. Taylor

OCEAN PINES ASSOCIATION, INC.

By:

[Signature]

ATTEST:

Therese M. Taylor

OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC.

By:

[Signature]

ARTICLES OF AMENDMENT

OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC.

(Without Authorized Capital Stock Under Sections 2-104, 5-201 & 5-202 of the Corporations and Associations Article)

Ocean Pines Volunteer Fire Department, Inc., a Maryland corporation, having its principal office in Worcester County, Maryland, hereby certifies to the State Department of Assessments and Taxation as follows:

FIRST: The Charter of the Corporation is hereby amended by striking out Paragraph 4 of Article Third, in its entirety, and substituting in lieu thereof the following:

"THIRD: The purposes for which the corporation is formed are as follows:

\* \* \*

4. To cooperate with other local or regional fire companies or fire departments and to provide mutual aid to other fire companies or departments."

\* \* \*

SECOND: The Charter of the Corporation is hereby amended by striking out Article Fourth, in its entirety, and substituting in lieu thereof the following:

"FOURTH: The membership in the corporation shall be divided into classes as follows:

1. Active membership.

Active membership shall be open to those persons approved for active membership by the Board of Directors who desire to serve as a volunteer firefighter and meet the qualifications for active membership provided in the By-Laws of the corporation. Active members shall be entitled to vote.

2. Honorary membership.

Honorary membership shall be open to those persons, organizations or corporations so chosen and designated by the Board of Directors. Honorary members shall not be entitled to vote.

3. Life membership.

Life membership shall be open to those persons approved for life membership by the Board of Directors who shall have been active members prior to November 1, 1977. Life members shall be entitled to vote.

4. Inactive membership.

Inactive membership shall be open to those persons approved for inactive membership by the Board of Directors who have served as active members but who no longer meet the qualifi-



cations for active membership provided in the By-Laws of the corporation by reason of the location of their residence. Inactive members shall not be entitled to vote."

THIRD: The Charter of the Corporation is hereby amended by striking out Article Fifth, in its entirety, and substituting in lieu thereof the following:

"FIFTH: The post-office address of the principal office of the Corporation in this state is Route 4, Box 2698, Ocean Pines, Berlin, Maryland, 21811. The name of the resident agent of the Corporation in this state is The Corporation Trust Incorporated, a corporation of this state, and the post-office address of the resident agent is First Maryland Building, 25 South Charles Street, Baltimore, Maryland, 21201."

FOURTH: The Charter of the Corporation is hereby amended by striking out Article Sixth, in its entirety, and substituting in lieu thereof the following:

"SIXTH:

1. The number of directors shall be as provided in the By-Laws of the Corporation, but in no event shall the number of directors be less than three nor more than seven. The term of directors of the Corporation shall be as provided in the By-Laws of the Corporation, but in no event shall the term of directors be less than one year nor more than three years.
2. The Board of Directors shall have the power to enact or amend By-Laws for the Corporation.
3. The Board of Directors shall have the power, by unanimous action, to amend these Articles of Incorporation."

FIFTH: The Board of Directors of the Corporation by a unanimous consent in lieu of a meeting, dated the 3rd day of September, 1977, adopted a resolution in which was set forth the foregoing amendments to the Charter declaring that the said amendments of the Charter were advisable and directing the President and Secretary of the Corporation to take all steps necessary to effectuate said amendments.

SIXTH: The Charter of the Corporation provides that the Articles of Incorporation may be freely amended by unanimous action of the voting members of the Board of Directors.

SEVENTH: The Corporation is a non-stock corporation.

IN WITNESS WHEREOF, Ocean Pines Volunteer Fire Department, Inc. has caused these presents to be signed in its name and on its behalf by its President and its corporate seal to be hereunto affixed and attested by its Secretary on the 3rd day of September, 1977.

ATTEST:

OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC.


Frederick B. Weiss  
Assistant Secretary

By: W. H. Maier  
W. H. Maier President

STATE OF MARYLAND ) ss:  
COUNTY OF MONTGOMERY)

I hereby certify that on this 3rd day of September, 1977, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County of Montgomery, personally appeared W. H. Maier President of Ocean Pines Volunteer Fire Department, Inc., a Maryland corporation, and in its name and on behalf of the said corporation acknowledged the foregoing Articles of Amendment to be the corporate act of said corporation.

As witness my hand and notarial seal.

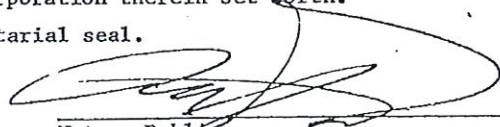
  
\_\_\_\_\_  
Notary Public (SEAL)

My Commission Expires: July 1, 1978.

STATE OF MARYLAND ) ss:  
COUNTY OF MONTGOMERY)

I hereby certify that on this 3rd day of September, 1977, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County of Montgomery, personally appeared Frederick B. Weiss, Asst. Secretary of Ocean Pines Volunteer Fire Department, Inc., a Maryland corporation, and stated that the matters and facts set forth in the foregoing Articles of Amendment are true to the best of his knowledge, information and belief, and that among the records of the corporation is a duly executed consent in writing duly conforming to the requirements of Section 2-408(c) of the Corporations and Associations Article of the Annotated Code of Maryland setting forth the action of the Board of Directors approving the amendments of the Charter of the corporation therein set forth.

As witness my hand and notarial seal.

  
\_\_\_\_\_  
Notary Public (SEAL)

My Commission Expires: July 1, 1978.



PROPOSED AMENDMENTS TO BY-LAWS OF  
OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC.

Note: The entire text of the existing By-Laws is set forth below, with proposed additions underlined and proposed deletions placed in double parentheses.

\* \* \* \*

BY-LAWS  
OF  
OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC.

ARTICLE I

Definitions

As used in these By-Laws:

Section 1.01. The term "Department" shall mean Ocean Pines Volunteer Fire Department, Inc.

Section 1.02. The term "Articles of Incorporation" shall mean the Articles of Incorporation of the Department as amended from time to time.

Section 1.03. The term "Subdivision" shall mean the subdivision known as Ocean Pines, which is situated in Worcester County, Maryland.

Section 1.04. The term "Association" shall mean Ocean Pines Association, Inc.

Section 1.05. ((The term "Community Manager" shall mean the Community Manager of Ocean Pines Association, Inc.)) The term "response area" shall mean the subdivision and such additional areas in Worcester County, Maryland, as may be deemed appropriate by the Board of Directors for primary fire protection by the Department.

ARTICLE II

Identification

Section 2.01. Name. The name of the Department is Ocean Pines Volunteer Fire Department, Inc.

Section 2.02. Seal. The seal of the Department shall be a disc inscribed with the name of the corporation, the year, and the state in which it is incorporated.

Section 2.03. Fiscal Year. The fiscal year of the Department shall begin on the first day of May in each year and end on the last day of April in the next subsequent calendar year.

### ARTICLE III

#### Membership

Section 3.01. Qualifications for Membership. The qualifications for ((Class A, B and C)) membership in the Department shall be those prescribed in the Articles of Incorporation. In addition, no person may be admitted to active membership unless such person is at least sixteen (16) years of age and maintains a residence or is employed in the response area.

Section 3.02. Evidence of Membership. The Board of Directors of the Department shall have the power (but not the duty) to cause the issuance of evidences of ((Class A, B and C)) membership in the Department to the various members thereof in such form as the Board of Directors shall prescribe. ((As of the date of the adoption of this Code of By-Laws, the Board of Directors has taken no action (except the adoption of this By-Law) in respect of evidence of Class A, B or C membership in the Department.))

Section 3.03. Admission to Membership ((- Classes A and B)); Revocation.  
((Class A - The Chief, with the concurrence of the Community Manager, may admit qualified persons who serve the Department in a volunteer capacity to Class A membership.))

((Class B - The Board of Directors, upon the nomination of the Class A membership, may admit persons, organizations or corporations to Class B membership.))

Admission to any class of membership in the Department shall require the approval of the Board of Directors. Membership in any class may be revoked, with or without cause, by majority vote of the membership at a special meeting thereof, provided that notice of the proposed revocation be given in the notice of the meeting and to the person affected at least ten (10) days prior to such meeting, or by majority vote of the Board of Directors, provided that notice of the proposed revocation first be given to the person affected at least ten (10) days prior to such meeting.

### ARTICLE IV

#### Meetings of ((Class A, B and C)) Members

Section 4.01. Place of Meeting. Any meeting of the ((Class A, B or C)) members of the Department may be held at any place ((either)) within ((or without)) the State of Maryland and the place at which a particular meeting of the members is to be held shall be stated in the notice of that meeting.



Section 4.02. Annual Meeting of ((All)) Members. The annual meeting of the ((Class A, B and C)) members of the Department for the election of Directors and officers whose terms have expired, and for the transaction of such other business as may properly come before the meeting, shall be held at ((one)) seven o'clock in the ((afternoon)) evening on the ((Saturday immediately preceding Labor Day)) first Wednesday in December of each year. Failure to hold the annual meeting at the designated time shall not work any forfeiture of the charter, or dissolution of the Department.

Section 4.03. Special Meetings of ((All)) Members. A special meeting of the ((Class A, B and C)) members of the Department may be called by the President ((,)) or a majority of the ((voting)) members of the Board of Directors.

((Section 4.031. Special Meetings of Class A Members. A special meeting of the Class A members of the Department may be called by the President, a majority of the voting members of the Board of Directors, or by the Chief, with the concurrence of the Community Manager.))

Section 4.04. Notice of Meetings of ((All)) Members. A written or printed notice stating the place, day and hour of a meeting of ((all)) members and, in the case of a special meeting of ((all)) members (or when required by any provision of law or the Articles of Incorporation, or by any other provision of the Code of By-Laws), the purpose for which such meeting shall have been called, shall be delivered or mailed by, or at the direction of, the President to each person, organization or corporation who is a ((Class A, B or C)) member of the Department, at least ten (10) days before the date of the meeting. Unless the Secretary shall have been otherwise notified in writing, adequate notice of a meeting shall be deemed to have been given to any voting member if said notice is mailed to the address of ((the)) such member appearing in his membership application or supplied by such member to the Department for the purpose of notice. Notice of any meeting of members waived in a writing filed with the Secretary of the Department before the time of the meeting, or by attendance in person. Notice of any meeting of members may, but need not, be given to members not entitled to vote. Notice of special meetings of members need not be given if such meeting is held on a regularly-scheduled basis and such schedule of meetings shall have been approved at a meeting for which notice was given.

((Section 4.041. Notice of Special Meetings of Class A Members. A written or printed notice stating the place, day and hour of a special meeting of the Class A members, and the purpose for which such meeting shall have been called, shall be delivered or mailed by, or at the direction of, the President or the Chief to each member of such class at least five (5) days before the date of the meeting. Unless the Secretary shall have been otherwise notified in writing, adequate notice of a meeting shall be deemed to have been given to any member if said notice is mailed to the address of the member appearing in his membership application or supplied by such member to the Department for the purpose of notice. Notice of any meeting of members may be waived in a writing filed with the Secretary of the Department before the time of the meeting, or by attendance in person. Notice of special meetings of Class A members need not be given if such meeting is held on a regularly scheduled basis and such schedule of meetings shall have been approved at a meeting for which notice was given.))

Section 4.05 Voting at Meetings.

Clause 4.051. Voting Rights. The voting rights of members of the Department shall be as prescribed in the Articles of Incorporation.

Clause 4.052. Vacant.

Clause 4.053. Proxies. Any person, organization or corporation entitled to vote at any meeting of the Department may vote in person or by proxy executed in writing or by a duly authorized attorney in fact. No proxy shall be valid after eleven (11) months from the date of its execution unless a longer time is expressly provided for upon the face of the proxy instrument.

Clause 4.054. Quorum. A quorum shall be deemed to be present at any annual or special meeting of ~~((all))~~ members of the Department ~~((if the Class C member is present. A quorum of the Class A members shall be deemed to be present at any special meeting of the Class A members if, at such meeting, not less than five (5) Class A members are present. For purposes of this Clause 4.054,))~~ if twenty percent (20%) of the voting members are present. A member shall be deemed to be present at a meeting if present in person or by proxy or by attorney in fact. ~~((The Class C member shall be present and entitled to vote if the President thereof appears on behalf of such member, or, in his absence, another officer or director thereof appears possessing a certified copy of a resolution of the Board of Directors of the Class C member authorizing him to appear and vote on its behalf.))~~

ARTICLE V

The Board of Directors

Section 5.01. Qualification and Election. The affairs of the Department shall be managed by a board of seven (7) Directors. ~~((Five (5) Directors shall be elected by the Class C member and shall be entitled to vote. Two (2) Directors shall be elected by the Class A members and shall not be entitled to vote.))~~ Directors ((need not be a member)) must be voting members of the Department. Each of the Directors shall serve for a term ending at the ~~((third))~~ first Annual Meeting of the Membership following his election, but shall hold his office until his successor shall have been chosen and qualified. ~~((Effective from and after the annual meeting of the Department to be held in 1975, the Board of Directors shall be increased to nine (9) directors by the addition of two (2) directors elected by the Class C member each of whom shall be entitled to vote and who shall serve for a term ending at the first Annual Meeting of the membership following his election, but shall hold his office until his successor shall have been chosen and qualified. Effective from and after the annual meeting of the Department to be held in 1976, each of the Directors shall serve for a term ending at the first Annual Meeting of the membership following his election, but shall hold his office until his successor shall have been chosen and qualified.))~~ The President, Vice President, Chief, and Assistant Chief shall serve, ex officio, as four (4) of the seven (7) members of the Board of Directors.

Section 5.02. Vacancies - Voting Members. Any vacancy that shall occur in the ~~((voting))~~ members of the Board of Directors by death, resignation, or otherwise, shall be filled by a ~~((majority))~~ vote of the ~~((remaining voting Directors))~~ membership, and the Director so chosen shall serve the unexpired portion of the term for which the person whom he is replacing shall have been elected or chosen.



((Section 5.0. Vacancies - Non-voting Meml). Any vacancy that shall occur in the non-voting members of the Board of Directors by death, resignation, or otherwise, shall be filled by a vote of the Class A members at a special meeting thereof, and the Director so chosen shall serve the unexpired portion of the term for which the person whom he is replacing shall have been elected or chosen.))

Section 5.03. Annual Meeting. The Board of Directors shall hold an annual meeting immediately after the annual meeting of the Department for the purposes of organization((, election of officers))and the consideration of any other business that properly may be brought before the meeting. The failure to hold any annual meeting at the designated time shall not work any forfeiture of the charter, or dissolution of the Department.

Section 5.04. Special Meetings. Special meetings of the Board of Directors may be called at any time by the President and shall be called on the written request of any two of the ((voting)) Directors. Unless otherwise ordered by the Board of Directors, a special meeting shall take place on the third Wednesday of every month beginning at 7:00 P.M. at the Community Center, White Horse Park, Ocean Pines, Berlin, Maryland.

Section 5.05. Notice of Meetings. A written or printed notice stating the place, day, and hour of the annual or a special meeting shall be delivered or mailed by the Secretary to each Director at least three (3) days before the date of the meeting. Notice of any meeting of Directors may be waived by any Director in a writing filed with the Secretary before the time of the meeting, at the time of the meeting, or after the time of the meeting, or by attendance in person. Notice need not be given of any special meeting of the Board of Directors taking place on the third Wednesday of any month beginning at 7:00 P.M.

Section 5.06. Place. All meetings of the Board of Directors of the Department shall be held at such place as may be specified in the respective notices, or waivers of notice, thereof.

Section 5.07. Quorum. A majority of the((voting))members of the Board of Directors shall be necessary to constitute a quorum of the Board of Directors((, except for the filling of vacancies of voting Directors, which shall require a majority of the existing voting Directors for a quorum)). The act of a majority of the((voting))Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 5.08. Powers and Duties of Directors.

((Clause 5.081. Powers.)) The powers of the Board shall include (but not be limited to) the power to exercise for the Department all the powers and duties of the Department whose exercise is not reserved or committed to the membership of the Department by the Code of By-Laws or the Articles of Incorporation.

Section 5.09. Adoption of Rules and Regulations. The Board of Directors may adopt rules and regulations governing the operation and affairs of the Department((and the Class A and B member)).

Section 5.10. Committees. The Board of Directors may create such temporary and standing committees as it shall deem necessary, and shall assign to each committee so created such duties as the Board of Directors shall consider proper for assignment to such committee. The Board of Directors shall choose committee members, and each such committee member shall serve at the pleasure of the Board of Directors.

Section 5.11. Informal Action by Directors. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if a written consent is filed with the minutes of the Board.

## ARTICLE VI

### The Officers of the Department

Section 6.01. Number. The officers of the Department shall be a President, a Vice President, a Chief, an Assistant Chief, a Secretary, and a Treasurer, and, in addition, the Directors may choose ((not more than two Vice Presidents,)) not more than two Second Vice Presidents, an Assistant Treasurer, and not more than two Assistant Secretaries. Any person may hold two (2) offices at the same time except the offices of President and Secretary. ((No officer, except the President, need be a Director.))

Section 6.02. Election and Term of Office. The President, Vice President, Chief and Assistant Chief shall be chosen annually by the membership. All other ((The)) officers shall be chosen annually by the ((voting members of)) the Board of Directors at the annual meeting of the Board of Directors. Each officer shall hold his office until his successor shall have been chosen and qualified, or until his death, resignation or removal.

Section 6.03. Removal. Any officer may be removed, with or without cause, at any time, by a vote of the majority of all of the voting members of the ((Board of Directors)) Department, at a special meeting of the ((Board of Directors)) Department called for the purpose of considering the removal.

Section 6.04. Vacancies. Vacancies in the office of President, Vice President, Chief or Assistant Chief shall be filled for the unexpired portion of the term by a person chosen by the voting members of the Department. Any vacancy in any other office ((because of death, resignation, or removal, or otherwise caused,)) shall be filled for the unexpired portion of the term by a person chosen by the ((voting)) members of the Board of Directors.

Section 6.05. The President. The President shall be chosen from among the ((Directors)) voting members. He shall, in general, perform all duties and have all powers ordinarily incident to the office of President and such other duties and powers as, from time to time, may be assigned to him by the Board of Directors. He shall be the chief administrative officer of the Department and shall be responsible for the executive management and administration of the operation and day to day affairs of the Department. Not less than one hundred twenty (120) days prior to the beginning of each fiscal year of the Department, he shall submit his recommended budget to the Board of Directors which shall include a financial plan for the year and contain estimates of anticipated revenues and expenditures. Not less than seventy-five (75) days prior to the beginning of the fiscal year, the Board of Directors shall adopt the final budget which may contain new items, decreases, increases, or elimination of proposed items. The budget may be amended at any time during the fiscal year by a majority vote of the entire Board of Directors.

Section 6.06. ((A)) The Vice President. ((A)) The Vice President shall have such powers and perform such duties as the Board of Directors may



prescribe or as the President may delegate to him. In the case of absence or inability to act of the President, ((a)) the Vice President shall temporarily act in his place.

Section 6.07. Second Vice Presidents. Second Vice Presidents shall have such powers and perform such duties as the Board of Directors may prescribe or as the President may delegate to them.

Section 6.08. The Secretary. The Secretary shall keep, or cause to be kept, in books that shall be provided for the purpose and shall remain in the Secretary's custody, the minutes of the meetings of the members of the Department and of the Board of Directors; shall at all times keep at the registered office of the Department a complete and accurate list of the names and addresses of all members of the Department; shall attend to the giving of all notices in accordance with the provisions of these by-laws and as required by law; shall be the custodian of the records (except the financial records) of the Department and of any die or other instrument usable in affixing the seal of the Department to paper; shall affix the seal of the Department (by means of a die or by hand) to every document whose execution on behalf of the Department under its seal shall have been properly authorized; and shall, in general, perform all duties incident to the office of Secretary and such other duties as, from time to time, may be assigned to him by the Board of Directors or the President.

Section 6.09. An Assistant Secretary. An Assistant Secretary shall have such powers and perform such duties as the Board of Directors may prescribe or as the President may delegate to him.

Section 6.10. The Treasurer. The Treasurer shall be the financial officer of the Department; shall keep, or cause to be kept, in books that shall be provided for the purpose and shall remain in the Treasurer's custody, complete books and records showing the financial condition of the Department and shall keep a separate financial account of each member of the Department; shall have charge and custody of, and be responsible for, all funds of the Department and shall deposit all such funds in the name of the Department in such banks, trust companies, or other depositories as shall be selected by the Board of Directors; shall receive, and give receipts for, moneys due and payable to the Department from any source; shall disburse the funds of the Department in accordance with the instructions of the Board of Directors of the Department; shall render to the President, on request, an account of all his transactions as Treasurer and of the financial condition of the Department; and shall, in general, perform all the duties incident to the office of Treasurer and such other duties as, from time to time, may be assigned to him by the Board of Directors or the President. No person shall serve as Treasurer unless there shall first be provided a fidelity bond in favor of the Department in such amount as the Board of Directors shall determine. The premium for such bond shall be paid by the Department.

Section 6.11. An Assistant Treasurer. An Assistant Treasurer shall have such powers and perform such duties as the Board of Directors may prescribe or as the President may delegate to him.

Section 6.12. Chief and Assistant Chief; Subordinate Officers. The Chief of the Department shall have full charge and control of the Department and its members when engaged in practice drills or in the fighting of fires. In the case of absence or inability to act on the part of the Chief, the Assistant Chief shall temporarily act in his place. No person may serve as Chief or Assistant Chief unless he shall first have completed a basic firefighting course approved by the Board of Directors or shall have completed five (5) years of service as a full-time employee of a fire department approved by the Board of Directors. The Chief shall establish the subordinate officer organization of the Department and shall appoint one or, where indicated, more of the following subordinate officers: Captain(s), Lieutenant(s), Chief Engineer and Assistant Engineer(s). The Chief shall be responsible for maintaining accurate records of all fires occurring in the response area or at any other location to which the Department shall respond.

Section ((6.12)) 6.13. ((Independent)) Audit. Not less often than annually, an ((independent)) audit of the books of the Department shall be performed and the results thereof reported to the Board of Directors.

#### ARTICLE VII

##### Corporate Books and Records

Section 7.01. Place of Keeping, In General. Except as otherwise provided by the laws of the State of Maryland or these By-Laws, the books and records of the Department may be kept at such place or places as the custodian thereof may select, but all of such books and records shall be open for inspection by any member of the Department for proper purposes at any reasonable time.

#### ARTICLE VIII

##### Execution of Checks and Contracts

Section 8.01. Execution of Checks. Every check for the payment of money of the Department shall, unless otherwise ordered by the Board of Directors or required by law, be signed by the Treasurer of the Department. Any such check in excess of ((Five Thousand Dollars (\$5,000.00))) Five Hundred Dollars (\$500.00) shall be countersigned by the President or Vice President.

Section 8.02. Vacant.



Section 8.03. Execution of Contracts. Every contract (in addition to those mentioned above, in this Code of By-Laws) to which the Department shall be a party, shall be executed in its name by its President or a Vice President and attested by the Secretary or an Assistant Secretary, and the Secretary or an Assistant Secretary shall, when doing so shall be appropriate, affix the seal of the Association to such contract. ((This section shall not apply to purchases or contracts for services or supplies as specified in Section 9.05.))

(( ARTICLE IX ))

(( Department Administration ))

(( Section 9.01. Community Manager. The Community Manager of Ocean Pines Association, Inc., shall be the chief administrative officer of the Department and shall be responsible for the executive management of the operations of the Department. ))

(( Section 9.02. Community Manager Powers and Duties. Subject only to the direction of the Board of Directors, the provisions of these By-Laws and the Articles of Incorporation of the Ocean Pines Volunteer Fire Department, Inc., and within the constraints of a budget, the Community Manager shall be responsible to the Board of Directors for the proper administration and management of the day-to-day affairs of the Department. The Community Manager shall have the power and duty to:

- (a) Appoint, and when necessary for the good of the administrative service, suspend, remove or terminate any employee of the Department.
- (b) Prepare a proposed annual budget and submit it to the Board of Directors and be responsible for its administration after adoption.
- (c) Advise the Board of Directors of the financial conditions and future needs of the Department.
- (d) Recommend to the Board of Directors from time to time such actions as he may deem advisable.
- (e) Organize, consolidate or combine offices, positions, departments, or units in the administrative service as may be necessary to properly administer the day-to-day affairs of the Department.
- (f) Attend the meetings of the Board of Directors and take part in the discussion of matters coming before the Board of Directors.
- (g) Serve as purchasing agent for the Department and make purchases and contracts for services or supplies on behalf of the Department for which funds are budgeted as further provided in Section 9.05 of these By-Laws.

- (h) Enforce all rules and regulations of the Department.
- (i) Investigate all complaints in relation to all matters concerning the administration of the affairs of the Department.)

((Section 9.03. Individual Board Members Not to Interfere with the Administrative Service. Individual members of the Board of Directors shall give no orders to any subordinate of the Community Manager, either publicly or privately, and, except for the purpose of inquiry, Board members shall deal with the administrative service solely through the Community Manager. The President of the Department shall provide day-to-day liaison between the Board of Directors and the Community Manager.))

((Section 9.04. Annual Budget. The Community Manager, not less than seventy-five (75) days prior to the beginning of each fiscal year, shall submit his recommended budget to the Board of Directors. Such budget shall provide a financial plan for the year and shall contain estimates of anticipated revenues and expenditures. Not less than thirty (30) days prior to the beginning of the fiscal year, the Board of Directors shall adopt the final budget which may contain new items, decreases, increases, or elimination of proposed items. The budget may be amended at any time during the fiscal year by a majority vote of the entire Board of Directors. The Community Manager may make transfers of up to ten percent (10%) from one budget category to another at any time, provided that the total budget amount is not increased and such transfers are consistent with the budget policies established by the Board of Directors. ))

((Section 9.05. Purchasing and Contracts. All purchases and contracts for services or supplies for the Department shall, to the fullest extent possible, be made by open, competitive procedures. Any such purchase or contract, up to Five Thousand Dollars (\$5,000.00) shall be made by the Community Manager. Any such purchase or contract for Five Thousand Dollars (\$5,000.00) or more shall be made by the Community Manager and must have the prior approval of the President, except for emergency purchases or contracts made by the Community Manager. If the Community Manager finds it necessary to make a purchase or contract in excess of Five Thousand Dollars (\$5,000.00) pursuant to an emergency, he shall immediately thereafter file a written report with the Board of Directors explaining the action, together with a detailed accounting of such emergency expenditures.))

((Section 9.06. Chief. The Chief of the Department shall be the administrative officer of the fire fighting operations of the Department and shall report to and be under the supervision and control of the Community Manager. The Chief shall be appointed by the Community Manager with the concurrence of the Board of Directors. The Chief may be removed by a vote of a majority of the voting members of the Board of Directors. ))

((Section 9.07. Powers and Duties of Chief. The Chief shall be responsible to the Community Manager for the proper administration and management of the fire fighting operations of the Department under the



supervision and control of the Community Manager. The Chief shall have the power and duty to:

(a) Recruit and, with the concurrence of the Community Manager, admit qualified persons to the Volunteer service of the Department.

(b) Provide information and make recommendations to the Community Manager for the preparation of an annual budget for submission to the Board of Directors.

(c) Advise the Community Manager of the financial conditions and future needs of the Department.

(d) Recommend to the Community Manager and Board of Directors from time to time such actions as he may deem advisable.

(e) Attend meetings of the Board of Directors and take part in the discussion of matters coming before the Board of Directors.

(f) Recommend to the Community Manager and Board of Directors such rules and regulations of the Department as may be necessary and appropriate and to provide for their enforcement.

(g) Investigate all complaints in relation to all matters concerning the administration of the affairs of the Department.

(h) Hold meetings and training sessions of members and of the public to teach them fire fighting and fire prevention skills.

(i) Cooperate with other local or regional fire companies or fire departments to provide liaison with other fire companies or departments.

(j) Provide for adequate and regular maintenance for all equipment and property of the Department.))

(( Section 9.08. Subordinate Volunteer Officers. The Chief, with the concurrence of the Community Manager, may appoint from among the volunteer service of the Department one or more of the following subordinate volunteer officers: Captain, Chief Engineer, Assistant Engineer, Lieutenant, Sergeant, Corporal and Private. All subordinate volunteer officers shall be under the supervision and control of the Chief and the Community Manager. Each of the foregoing subordinate volunteer officers shall report to and be under the supervision and control of each of the preceding, higher ranking subordinate volunteer officers. In cases of subordinate volunteer officers of equal rank, the officer junior in service shall be subordinate to the officer senior in service. No person may serve as a subordinate volunteer officer unless he shall first be admitted to Class A membership in the Department.))

(( Section 9.09. Powers and Duties of Subordinate Volunteer Officers. Subordinate volunteer officers shall possess such powers and have such duties as may be delegated or assigned to them by the Chief within the scope of his powers and duties and subject to the concurrence of the Community Manager.))

((Section 9.10. Termination from Volunteer Service and Revocation of Class A Membership. A member of the volunteer service may be terminated and the membership of a Class A member may be revoked, with or without cause, by:

(a) Majority vote of the Class A members at a special meeting thereof, provided that notice of the proposed termination and/or revocation first be given to the Class A members and the person affected at least ten (10) days prior to such meeting.

(b) The Chief, with the concurrence of the Community Manager.

(c) Majority vote of the voting membership of the Board of Directors.))

(( ARTICLE X))

(( Personnel System))

((Section 10.01. Personnel Policies. The Board of Directors shall establish and from time to time may amend or revise personnel policies governing all employees of the Department. Such policies may include, but shall not be limited to, compensation plan, fringe benefits, leave, paid holidays, hours of work, and other conditions of employment.))

(( Section 10.02. Personnel Officer. The Community Manager of Ocean Pines Association, Inc., shall be the personnel officer and shall be fully responsible, unless otherwise directed by the Board of Directors, for the administration of the personnel system and enforcement of personnel policies. The Community Manager may establish administrative rules and regulations to carry out the intent and purpose of the personnel system and personnel policies.))

((Section 10.03. Employee Defined. "Employee" is defined as any individual employed for compensation by the Association or the Department to perform personal services in accordance with the personnel system and personnel policies adopted by the Board of Directors. Consultants, attorneys and contractors are not employees within the meaning of this section.))

((Section 10.04. Persons Not Permitted to be an Employee. No member of the Board of Directors or any officer of the Department may at the same time be an employee, except the Community Manager.))



(( Section 10.05. Employee Classification. The Community Manager shall recommend to the Board of Directors a system of classification of employees to form the basis for determining the application of personnel policies established pursuant to Section 10.01. Employees shall be assigned to the designated positions and compensated in accordance with a pay plan contained in the annual budget. No position shall be established except as provided by the annual budget of the Department or upon the express approval of the Board of Directors. In an emergency, the Community Manager may temporarily employ and compensate an employee for a period not to exceed thirty (30) days.))

(( Section 10.06. Prohibited Compensation. No member of the Board of Directors, nor any officer of the Department, except the Community Manager, nor any person appointed to an advisory committee, task force or other advisory body created by the Board of Directors, shall be compensated for services in connection with such positions; provided, however, such persons may be reimbursed for necessary expenses in connection with such service in accordance with such policy as the Board of Directors may establish.))

(( Section 10.07. Personnel Actions. The Community Manager, as personnel officer, shall have full discretion to appoint, promote, demote, discipline or discharge for cause employees of the Department in accordance with its personnel system and approved personnel policies. Appointment of all employees shall be solely on the basis of fitness and qualifications for the position vacant and without regard to race, color, religious affiliation, national origin, or sex. No appointment or other personnel action shall be made due to favoritism, financial inducement or other undue influence, but solely upon the employee's fitness, qualifications or actual performance.))

(( Section 10.08. Employee Grievance and Appeals. The Community Manager shall establish a system by which any employee of the Department may present any grievance concerning conditions of employment which affect him, and a procedure of appeals to the Board of Directors of any personnel action which any employee believes adversely affects him.))

#### ARTICLE ((XI)) IX

##### Amendments

Section ((11.01)) 9.01. In General. The power to add to, alter, amend, or repeal (wholly or in part) these By-Laws is vested in the Board of Directors. The affirmative vote of a majority of the entire Board of Directors ((entitled to vote)) present at a special meeting called for such purpose shall be necessary to effect any addition to, alteration, amendment, or repeal of these By-Laws.

EXHIBIT "D"

We, the undersigned, hereby resign as officers and directors of Ocean Pines Volunteer Fire Department, Inc. as of the date of the special meeting of the membership of Ocean Pines Volunteer Fire Department, Inc. to be held pursuant to Paragraph 3 of the Agreement between Ocean Pines Volunteer Fire Department, Inc. and Ocean Pines Association, Inc. dated September 3, 1977.

Director
Director
Director
Director
Director
Director
Director
Director
Director
Director
President
Vice President
Secretary
Treasurer
Assistant Secretary





Ocean Pines Volunteer Fire Department, Inc.

2698, Ocean Pines  
Berlin, Maryland 21811  
(301) 641-8878 - 8272

July 5, 1995

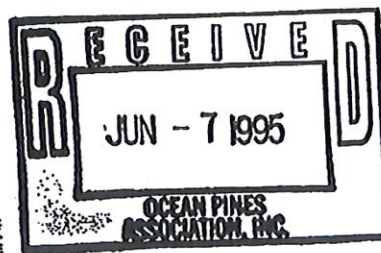
Info/APPVED

9/19/95

ACTION

LETTER  
BY MGR  
TO OPVFD

To: Mr. D. Timothy Stoner, General Manager  
Mr. Gary Greenberg, OPA President  
Mr. Bill Beste, OPVFD Liaison



From: L. B. (Lee) McClaflin, President OPVFD

Subject: Memo of Understanding between the OPA and the OPVFD.

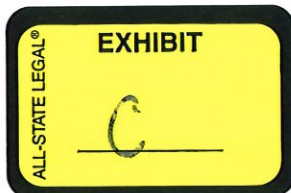
During the last meeting of the OPVFD Board of Directors it was felt that due to the impending changes in management and OPA Board that a memo or letter of understanding should be signed by the current administration on certain items that have been agreed upon between the two organizations. .

Item 1. The OPA Board of Directors increased the assessment of all OPA members by \$10.00 to replace the Ambulance membership. The reason being that only 1100 to 1200 members paid for Ambulance membership. This assessment makes all OPA members, also members of the OPVFD Ambulance service. This was strictly to replace the membership drive and not intended to replace any other funding provided by OPA for the operation of the OPVFD or EMS service. *iv*

Item 2. Prior to May 1, 1995 the paid members of the OPVFD, Emergency Medical Services were carried as employee's and on the payroll of the OPA. By joint agreement the OPVFD has taken on the EMS personnel as employees of the OPVFD Emergency Medical Services. Prior to the switch OPA billed OPVFD on a monthly basis for half the salary, benefits, and workers compensation insurance etc. Effective May 1st the OPVFD will bill the OPA for half of the costs per our agreement. These cost may be somewhat higher because we loose the economics of size. *7*

Item 3. The OPA will continue to provide an employee pass to use the Sports Core pool. *lost st*  
*OPVFD MGR*

Item 4. Realizing that being employees of the OPVFD such members may be required to work extra overtime, and or shifts in order to provide adequate coverage to the Ocean Pines community. ie a call at 6:50 AM will run over their normal shift, they may have to work an extra shift or part of a shift to insure 24 hour coverage if a substitute cannot be secured on short notice. *7?*



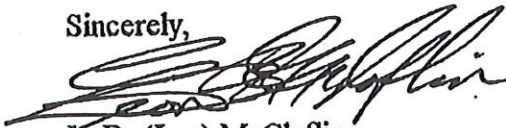
Item 5. Due to the above, statements submitted by OPVFD will include one half of the costs for any substitute necessary to provide 24 hour coverage to the Ocean Pines community. The OPA will cease paying a monthly allocation under item 504 of the Fire and Ambulance Budget. ]

Item 6. The OPVFD agrees to continue to provide Emergency Medical Services to the Ocean Pines community. The OPA agrees to continue funding part of the OPVFD Emergency Medical Services budget on an annual basis.

NOT TO EXCEED 50% OF TOTAL \$070

If any of you or the OPA board thinks that we need to expand on this letter of understanding please let me know.

Sincerely,

  
L. B. (Lee) McClafin





# OCEAN PINES ASSOCIATION, INC.

239 Ocean Parkway • 2700 Ocean Pines • Berlin, Maryland 21811 • (410) 641-7717

November 7, 1995

Ocean Pines Volunteer Fire Dept.  
2698 Ocean Pines  
Berlin MD 21811

Dear Mr. McClaflin:

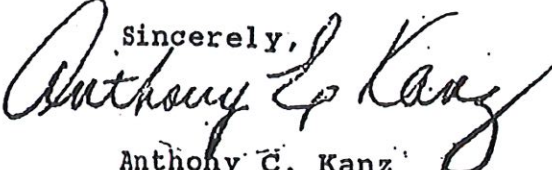
The OPA Board of Directors has reviewed and discussed your letter of July 5, 1995 with regard to certain items of mutual concern. The following is the Boards response to the six items contained in your letter.

1. Your understanding of the assessment to all OPA members is correct. However, it should be noted that this Board can not commit future Boards to the same level of funding. The assessment is part of the annual budget process for the Association and subject to change should other needs arise.
2. Your outline of the transfer of employees from OPA to OPVFD is correct. The Association agrees to be responsible for one-half of the cost of salaries, benefits and workers compensation insurance as agreed upon by the OPA Board of Directors. The Association will not be responsible for costs which the OPVFD incurs without OPA Board approval. For example if OPVFD determines it needs additional paid personnel or raise salaries beyond the approved budget, OPA will not be responsible for 1/2 of increased cost.
3. OPA will continue to provide an employee pass to utilize the Sports Core pool.
4. OPA understands the need to provide adequate coverage. Care should be taken to assure compliance with applicable wage and hour regulations.
5. In order to be reimbursed the OPVFD must submit a detailed invoice to OPA which should itemize all costs for which reimbursement is sought.

6. The current OPA Board agrees to continue funding part of the OPVFD Emergency Services budget on an annual basis as approved through the Association budget process.
7. The method of funding capital equipment (i.e. OPA 50 percent, OPVFD 50 percent of cost) on items submitted for approval to the OPA Board shall be continued. The Association will not participate in the funding of any capital item or piece of equipment unless prior approval is granted.

The Directors believe this memo responds to the items outlined in your letter and serves to further clarify the extent of the understanding concerning those items.

The Board wishes to again complement the members of the OPVFD and Emergency Services personnel for the dedicated and outstanding service provided to the Ocean Pines community.

Sincerely,  
  
Anthony C. Kanz  
President

ACK/pce



THIS AGREEMENT is made this 12<sup>th</sup> day of May, 2008 by and between OCEAN PINES ASSOCIATION, INC., a Maryland non-stock, non-profit corporation (hereinafter called the "Association") and OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC., a Maryland non-stock corporation, (hereinafter called the "Department").

WHEREAS, the Association is the owner of a parcel of land within the subdivision of Ocean Pines, denoted "White Horse Park" which said parcel is described as parcel "A-1" in a certain Deed recorded among the Land Records of Worcester County, Maryland in Liber FWH 453, Folio 587, et. seq.; and

WHEREAS, the Department, in accordance with the provisions of an agreement dated September 3, 1977, has utilized a portion of the Community Center building located in White Horse Park for a fire station but, is now desirous of locating a new fire station facility in White Horse Park in the location as shown on the attached plat denoted "Ocean Pines Volunteer Fire Dept. site, White Horse Park Ocean Pines Worcester County, Maryland prepared by Soule & Associates, P.C." which said plat is attached hereto as Exhibit A and made a part hereof; and

WHEREAS, Association is desirous of executing this Agreement upon the terms and conditions herein set forth in order to set aside and designate the parcel of land on said Soule Associates plat for the sole purpose and exclusive use of Department provided that the Department utilizes said parcel solely for the purpose of the construction and maintenance of a fire station and emergency services facility together with parking adjacent thereto also in compliance with the terms and conditions hereof.

NOW THEREFORE, THIS AGREEMENT WITNESSETH that for and in consideration of the mutual promises herein set forth and other good and valuable considerations (but no monetary consideration) Ocean Pines Association, Inc. and Ocean Pines Volunteer Fire Department, Inc. do hereby agree as follows:





1. The Association does hereby agree that the Department shall have sole and exclusive use of the parcel of land described on the attached plat attached as Exhibit A, and which said parcel is described by metes and bounds on the "legal description" attached as Exhibit B, for the purposes of location, construction, maintenance and use of a fire station and emergency services facility together with parking necessary for the use of such facility in the manner shown on the site plan designated as Exhibit C hereof.

2. The Department agrees that it shall, at its expense, construct a fire station and emergency services facility in accordance with plans and in the architectural style which the Department shall submit to the Architectural Review Committee (ARC) of Association for its approval as to location and design. Association agrees that it shall waive any permit fees otherwise chargeable by the ARC.

Department acknowledges that it is required to obtain approval from Department of Development Review and Permitting of Worcester County for the construction of said facility. The parties agree that in the event that the approval of said department is not acquired for any reason, this agreement shall be null and void and of no further effect.

3. The Association does hereby agree that it shall cause to be provided to the Department two points of access for ingress and egress by vehicles and persons from the parcel of land in order to access directly upon Ocean Parkway in the manner and configuration as shown on Exhibit C hereof. Association shall further cause such signage and other necessary traffic safety structure to be erected adjacent to the site for the purpose of allowing traffic to access safely to and from said fire station and public safety facility and Ocean Parkway.

4. The Department agrees that it shall maintain the site, including the parking area, the exterior of the facility, and all landscaping appurtenant thereto in a good and well maintained manner so as to prevent the facility or its site from becoming unsightly or a detriment to the surrounding property.

5. The Department does further agree that, upon obtaining a use and occupancy permit for the facility, it shall make no further claim of right with respect to the existing fire station located in the Community Center at White Horse Park and the Department does acknowledge that it is the intent of the Association to cause the existing fire station facility to be incorporated into the Community Center for the use and enjoyment of members and guests of Ocean Pines Association, Inc. By the execution hereof, the parties agree that, upon occupancy of the new facility the rights of user set forth in Paragraph 6 of the agreement dated September 3, 1977 shall be terminated without further notice being required.

6. The parties agree that the use of the parcel of land shall continue for successive periods of 20 years until the event set forth in paragraph 7 shall occur.

7. The parties hereto do further agree that, in the event of dissolution of the Department, it shall, in accordance with its Articles of Incorporation, distribute the building and facility, together with the remainder of its assets, to the Association.

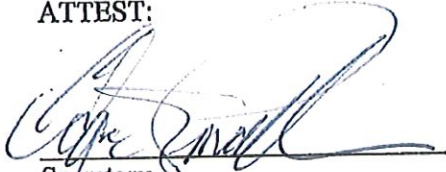
8. Except as herein amended and agreed upon, the aforesaid agreement dated September 3, 1977 be, and the same is hereby, reaffirmed.

9. This agreement and the rights, privileges, duties and obligations set forth herein may not be assigned in whole or in part by the Department.

10. This agreement shall be final and binding upon both parties hereto and no amendment to any provision hereof shall be effective unless in writing and executed by both parties.

IN WITNESS WHEREOF THE PARTIES HERETO have caused this agreement to be executed on their behalf by their respective officers and their corporate seals affixed as of the day and year first herein written.

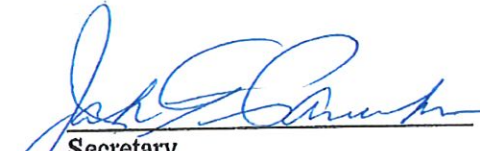
ATTEST:

  
Secretary

OCEAN PINES ASSOCIATION, INC.

BY:  (SEAL)  
William Zawacki, President

ATTEST:

  
Secretary

OCEAN PINES VOLUNTEER FIRE  
DEPARTMENT, INC.

BY:  (SEAL)  
President



MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding, made and entered into this 30<sup>TH</sup> day of SEPTEMBER, 2011, by and between Ocean Pines Association, Inc., a Maryland non-stock corporation (the "Association") and Ocean Pines Volunteer Fire Department, Inc., a Maryland non-stock corporation (the "Department").

WHEREAS, Association and Department (the "Parties") entered into an Agreement dated September 3, 1977 (the "Agreement"); and

WHEREAS, The Parties to the Agreement, while they are updating the relationship between themselves with this Memorandum of Understanding, want to affirm the 1977 Agreement as being operative and in effect; and

WHEREAS, the purpose of this Memorandum of Understanding is also to define additional services provided by the Department including emergency medical services and rescue services, which shall be recognized and included in the services performed by the Department, and under the Agreement between the Parties hereto.

NOW THEREFORE, by this Memorandum of Understanding, the Parties hereto do hereby agree as follows:

1. By virtue of the fact that the Parties have heretofore caused the location of a new fire station facility in White Horse Park, the Parties agree that the provisions of Section 6 of the Agreement has been fully satisfied and that the Department no longer requires access to the Association's Community Center described in Paragraph 6 of the Agreement. The parties agree that as long as the Department is providing fire protection services in accordance with the terms of the 1977 Agreement, per the May 12<sup>th</sup>, 2008 Agreement it shall have full use of the area of property in White Horse park presently utilized for its fire station.
2. A. In Section 9 of the Agreement, the provision is included that all financial or other form of assistance received under the Agreement by the Department from the Association shall be used solely for "fire protection purposes". Such term is not defined in the Agreement, nor are "fire protection purposes" defined in the Public Safety Article of the Code of Worcester County. Therefore, the Parties agree that the term "fire protection purposes" shall include the Department providing emergency medical services and rescue services as well as fire protection and prevention services generally.  
  
B. In the event that either party determines that emergency medical services and rescue services can be provided more effectively by an independent third party provider, the Parties shall amend the Agreement, and this Memorandum, for the purpose of redefining the scope of "fire protection services". In the event that such determination is made by either party, it shall notify the other not less than six months prior to the end of the present fiscal year of such determination. The notice shall provide a date certain in the following fiscal year upon which time such emergency medical and/or rescue services shall cease.



se  
TUT

3. The Department maintains an apparatus and facilities replacement schedule by which it determines the necessary yearly allocation of its projected reserve amount in order to set aside funds for such future apparatus replacement. The Parties agree that the Association shall contribute to the funding for such yearly allocation and, to that end, the Parties will meet on an annual basis for the purpose of making a mutually agreeable determination of the reasonable amount of funding to be made by the Association, subject however, to the provisions of Paragraph 9 of the Agreement.

4. Under the provisions of Section 14 of the Agreement, and/or section 2B of this Agreement, in the event of dissolution of the Department or any portion thereof, the Department shall distribute all the assets related to that portion being dissolved to the Association. The Parties agree that the monetary reserve, associated with the replacement of equipment and facilities utilized by the Department and all other cash accounts, shall be included in "all assets of the Department" to the end that all funds as well as physical assets shall be so distributed.

5. There is attached hereto and made a part hereof as Exhibit "A" a memorandum of the relationship structure between the Association and the Department and, such relationship structure memorandum is hereby determined by the Parties to be the description of the nature of the relationship with respect to a funding formula and method by which the Association aids the Department in its responsibility to provide fire protection services as herein defined to the community, and the funding for such services.

6. Parties agree to develop and obtain approval by mutual agreement of, a policy for allocation of reserve funding to include request and disbursement procedures by both parties within 3 months of the execution of this memorandum of understanding.

7. In all respects, except as herein modified the parties agree that the September 3, 1977 Agreement is in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Understanding as of the day and year first herein written.

OCEAN PINES ASSOCIATION, INC.

By: 

Thomas Terry, President

OCEAN PINES VOLUNTEER FIRE  
DEPARTMENT, INC.

By: 

PRESIDENT





Exhibit A

OPVFD and OPA Relationship Structure

7-27-11

Background: The OPA has the responsibility to assure there is fire protection provided to its members. The OPVFD has provided these quality services to OPA and its members for many years. These services have evolved over time to provide excellent support for the residents of Ocean Pines. OPA has a long-standing commitment to supply financial support needed by the OPVFD to supply fire protection. The basic relationship between OPA and OPVFD is set forth in an agreement (the "Agreement") between the two parties dated September 3<sup>rd</sup>, 1977, which replaced the previous agreement of February 22, 1975.

In order to update and further define the relationship, the OPVFD and OPA representatives have created a Model which includes a funding formula.(Exhibit B) . The Model, which has been developed, is designed to account for the various funding and revenue sources for OPVFD plus assure the OPVFD has a sustainable financial foundation to support its operational and capital expenditures. The Model also needed to assure that OPA provides the appropriate level of funding year over year.

Major Items: To assure that OPA's funding is correct year over year; the implementation of year end true-up was established. This true-up is a comparison of OPA funding levels to year end actual OPVFD requirements . This comparison is used to adjust future budget requests to reflect under or over funding from OPA. This concept is founded on the understanding that we work

7/27/11  
AD



with budget plans, which are our best expectations of results. There is a need to use actual outcomes to adjust future budgets.

All sources of revenue to the OPVFD are reflected in the Model. Once other sources are projected and compared to the full budget, the net of this comparison becomes the basis for the requested funding from OPA.

The team of OPVFD and OPA leaders took steps to support the ongoing concept of the OPVFD continuing its fundraising and donation efforts, while reflecting that these monies are a special type of revenue. The approach created in the model is to support the OPVFD having a fundraising account which will be used to pay all expenses for fundraising and the OPVFD accepting all risks associated with this effort. With this in mind the team decided to propose that this fundraising account, funded by the OPVFD, be able to grow to a level of \$ 150,000 dollars. On each fiscal year end date any monies in this account over the limit will be included in the budgetary request as an adjustment to the level of request: I.e. If the account is \$160,000; \$10,000 dollars would be added to the expected revenue for the OPVFD in the next budget cycle. (To be clear this is a cumulative year end limit not an additive \$150K per year where the amount would grow to \$300/\$450K etc.) Within each year the OPVFD may utilize the money received at its own discretion, with the understanding that the funds will be used to reasonably support their OPVFD efforts, which provide support for Ocean Pines Residents.

Further, OPA and OPVFD both agree the OPVFD may need the ability to raise money toward the refurbishing and/or replacement of the South Station or other major facilities. The specifics of such fund raising will be negotiated at that time.

Capital budgeting: The accounting teams supporting the OPVFD and OPA have created an agreed upon method of determining the annual Capital Reserve Costs, based on replacement costs (the "Capital Reserve Schedule"); to be used in future year(s) budget planning. Each year the Capital Reserve Schedule will be updated and revised to maintain information that is as accurate and reasonable as possible.

JP  
SR

Exhibit B

Layman's Picture of the Model:

Funding/Revenue

County EMS

County Fire

Grants and State Funding = Revenue

EMS billing revenue

Interest income

Year end true up (+ or -)

Fundraising adjustment... If Any (-)

Misc.

Operational/Capital

Operations Expense

Capital Reserve Costs Per Schedule = Expense

Debt service

Revenue – Expenses = Budget request from OPVFD to OPA

*Paul  
SR*



**Supplement to September 30, 2011 Memorandum of Understanding  
Between the Ocean Pines Association and the Ocean Pines Volunteer Fire Department**

This Supplement to the September 30, 2011 Memorandum of Understanding (the "Supplement") by and between Ocean Pines Association, Inc., a Maryland non-stock corporation (the "Association"), and Ocean Pines Volunteer Fire Department, a Maryland non-stock corporation (the "Department"), is made and entered into this 34<sup>th</sup> day of July, 2013, by and between the Association and the Department (the "Parties").

**WHEREAS**, the Parties entered into an Agreement, dated September 11, 1977 (the "Agreement"), and entered into a Memorandum of Understanding (the "MOU"), dated September 30, 2011; and

**WHEREAS**, the purpose of this Supplement is to define the policies for determining and allocating the Capital Reserve Costs and the funding thereof, including the request and disbursement procedures by the Parties.

**NOW THEREFORE**, by this Supplement to the September 30, 2011 Memorandum of Understanding, the Parties hereto do hereby agree as follows:

1. Utilizing the Department's apparatus, equipment, and facilities database, a Capital Replacement Reserve Schedule (the "Reserve Schedule"), shall be prepared and maintained by the Department, which Schedule shall set forth the information required, under the terms of this Supplement, and which shall be used to determine, on an annual basis, the estimated amount of future Capital Reserve funding required, the amount of such future funding required in the following fiscal year (the "Capital Cost"), and the allocation of that estimated amount to be funded by the Association (the "Funding"). All amounts used in the Capital Reserve Schedule shall be as of the last day of the fiscal year immediately preceding the fiscal year for which the annual Capital Cost is being calculated.
2. The determination of the Capital Replacement Reserve, the annual Capital Cost, and Funding shall be based on the following:
  - a. The calculations shall be based not on the cost of the various assets, but rather on the estimated replacement cost of those assets, as determined from time-to-time.
  - b. The calculations shall be determined on the basis of each individual depreciable asset of significance, currently in use to provide the services subject to the then existing Agreement between the Parties.
  - c. The calculated Annual Cost for each asset shall be the sum of the computed Reserve amount which should be on hand ("Reserve Amount"), based on the completed years of usage compared to its total estimated useful life, less the amount of Reserve Fund Cash ("Reserve Cash") allocated to that asset, divided by the remaining years of useful life.
  - d. The allocation of Reserve Cash to individual assets shall be based on the percentage of each asset's calculated Reserve Amount to the total Reserve Amount.
  - e. The aggregate of the individual asset amounts shall be the total Annual Capital Cost.
  - f. The Association's Funding shall be the amount of the Annual Capital Cost allocated to it, which shall be 100% of the amounts relating to assets other than those which the Parties have agreed will not be annually funded by the Association, including the South Station and assets which are donated, or funded, by third parties (through grants, gifts, etc.).





- g. For purposes of presentation, and in recognition of the fact that funding from entities other than the Association (Worcester County, State of Maryland, insurance providers, etc.), are intended to fund both operating and capital costs, 50% of the Annual Capital Costs allocated to the Association shall be reflected in the various computations and presentations as an allocation to the funding from those sources.
- 3. The amount of Reserve Cash on hand shall include all cash and investments, with the following exceptions: a) "Fundraising" cash, up to the limits provided for in the MOU, shall be excluded; b) 25% (3 months) of annual cash operating costs shall be excluded; c) any cash funds being held for other parties shall be excluded; and, d) significant non-cash items, including pre-funding of future expenses (i.e. prepaid House Raffle expenses), shall be included as Reserve Cash in the calculation. The amount of Reserve Cash used for budgetary calculations shall be the amount projected to be on hand at the end of the fiscal year immediately preceding the fiscal year for which the budgeted Capital Cost is being prepared. Reserve Cash shall be subject to the "True-Up" provisions of the MOU.
- 4. The annual Capital Cost and Funding shall be subject to the "True-Up" provisions of the MOU, as the calculated annual costs for Budget purposes, and the Association's allocation thereof, utilizes estimated amounts, particularly for the estimated amount of Reserve Cash which will be on hand at fiscal year-end, which amount significantly affects the amount of the annual funding requirement. The "True-Up" adjustment shall also include the correction of errors and omissions in the calculation of previous budgeted annual Capital Costs and shall result in a revision to the Association's Funding.
- 5. In addition to updating the Reserve Schedule for "True-Up" adjustments (Reserve Cash and errors and omissions), at the time the actual information becomes available, the Reserve Schedule shall be annually updated in order to make additions and deletions to the list of individual assets, and also to make changes, if any, to the previous estimates of the replacement cost, or the estimated remaining useful life of each individual asset. This update shall be performed in conjunction with the annual Budget process and any resulting changes shall not be considered "True-Up" adjustments, which retroactively adjust to actual the estimates previously used. Consequently, these adjustments will impact the calculations of future years only.
- 6. The South Station shall not be included in the calculation of the annual Capital Cost to be allocated to the Association. It is the intent of the Parties to utilize fundraising efforts, including a possible community-wide Capital Campaign, to provide the funding necessary to renovate, refurbish, or replace, this facility. The Association acknowledges its commitment, in partnership with the Department, to ensure the necessary funding.



7. Those depreciable equipment and apparatus assets, which are not significant (generally under \$50,000 unless the items are registered and titled assets), shall not be separately listed, but aggregated into a single, or several, amounts on the Reserve Schedule ("Large Equipment", etc.) and shall receive the same treatment as the individually listed assets. The cost and estimated replacement cost, as well as the estimated useful and remaining lives, shall be reasonable approximations of the actual average of the assets comprising these groups, as agreed to by the Parties.
  
8. The timetable for determining the Department's annual request to the Association for funding the Capital Reserve Cost shall be consistent with the annual Budget process and incorporated therein. In order to timely provide information to the Association to allow it to meet its By-Law requirements for obtaining approval of its Annual Budget, the Parties agree that the Department will provide its request by December 1<sup>st</sup> of each year for the following fiscal year, which begins on May 1<sup>st</sup>. The Capital Reserve and annual Capital Cost and Funding, as stated previously in this Supplement, shall be based on assets expected to be in use as of the beginning of the fiscal year (only assets in use the entire fiscal year will be included), and the calculations shall be based on an updated Reserve Schedule, which shall be as of the last day of the fiscal year immediately preceding the fiscal year for which the Budget is being prepared, and include a description of each asset, its original cost and estimated replacement cost, purchase date, estimated total and remaining useful life, and total Reserve Fund Cash, as well as the amount of such cash allocated to each asset.
  
9. The "True-Up" concept was incorporated into the MOU in recognition of the fact that, in the budgeting process, financial estimates are required to be used and actual results will not be known for many months after the annual Budget has been prepared and approved by each organization. The "True-Up" provision provides for adjusting the estimated amounts used to the actual results achieved. Consequently, the "True-Up" adjustment cannot be calculated until the actual financial amounts have been determined and validated. Therefore, the "True-Up" adjustments for both the Capital Cost, as well as the other components comprising the annual Budget, shall be determined on the basis of the audited financial statements of the Department. Consequently, the adjustments, which will effect the actual funding for that fiscal year, shall be determined by the end of August.
  
10. Revisions to the current fiscal year's funding by the Association, resulting from differences between the original budgeted amounts and the actual amounts (either increases or decreases), after applying the "True-Up" adjustments, shall be implemented in October and result in modified monthly disbursements for the remainder of the fiscal year. The result will be that total actual funding by the Association for the fiscal year will be equal to the original Budget adjusted for the "True-Up" adjustments.

11. Notwithstanding the above agreed- upon method of determining the Funding by the Association of the Capital Cost component of the annual funding of the Department, as provided for in Item #3 of the MOU, "... the Parties will meet on an annual basis for the purpose of making a mutually agreeable determination of the reasonable amount of funding to be made by the Association, subject however, to the provisions of Paragraph 9 of the Agreement."
12. Funding disbursements by the Association to the Department shall be made in monthly payments and consist of two separate components, as follows:
  - a. The first component shall consist of the operating and debt funding plus 50% of the Capital Cost funding, and will be made directly to the Department by the 15<sup>th</sup> day.
  - b. The second component shall be the remaining 50% of the Capital Cost funding, and shall be deposited into a separate Association bank account created specifically for these Funds, which bank account shall be held on behalf of the Department and shall be used only to make disbursements for the renovation and/or replacement of the capital assets included in the Replacement Schedule.
13. The monthly disbursements and deposits shall be made in an amount equal to the then determined annual amount for that fiscal year, less amounts previously paid, divided by the number of months remaining in that fiscal year. (This recognizes that the Supplement provides for a "True-Up" adjustment during the fiscal year, which likely will revise the annual funding amount.)
14. Disbursements from the Capital Reserve Bank account maintained by the Association, for capital asset renovations and/or replacements, shall be made annually, following completion of the annual audit, and be based on a request by the Department for such a disbursement, which request shall provide adequate documentation. The allocation of the annual funding of Capital Costs between the Association and the Department shall be based on the ratio of each Party's Reserve Cash Fund balance to the aggregate Reserve Cash, as of the end of the preceding fiscal year (audited).
15. The Department's books and records and financial statements shall reflect the nature of the various funds received from the Association and also reflect the nature of the agreed upon Capital Reserve Funds and Reserve Cash of the Department. Such distinctions will provide for compliance with Section 4 of the MOU, which Section addresses asset distribution in the event of a dissolution, or partial dissolution, of the relationship between the Parties, as described in Section 2 of the MOU.



IN WITNESS WHEREOF, the Parties hereto have executed this Supplement to the September 30, 2011 Memorandum of Understanding as of the day and year first herein written.

OCEAN PINES ASSOCIATION, INC.

By: Thomas E. Terry

Thomas E. Terry, President

OCEAN PINES VOLUNTEER FIRE DEPARTMENT, INC.

By: Daniel R. Healy

Daniel R. Healy, President

